

UNITED STATES OF AMERICA
UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
EASTERN DIVISION

HONORABLE VIRGINIA A. PHILLIPS
UNITED STATES DISTRICT JUDGE PRESIDING

REPORTER'S TRANSCRIPT OF PROCEEDINGS
(P.M. SESSION)

THURSDAY, AUGUST 14, 2014

LOS ANGELES, CALIFORNIA

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1 RIVERSIDE, CALIFORNIA; THURSDAY, AUG. 14, 2014; 1:20 P.M.

2 - - -

3 THE COURT: Good afternoon. Let the record reflect
4 the presence of all members of the jury, all counsel present
5 and the defendants present, the witness on the witness stand.

6 Ms. DeWitt, were you -- had you completed your
7 direct?

8 MS. DeWITT: No, I had not.

9 THE COURT: All right, you may continue.

10 DIRECT EXAMINATION (CONTINUED)

11 BY MS. DeWITT:

12 Q. Special Agent Sirk, I think where we left off just
13 before the lunch break was we were looking at the letters
14 that were left in the laundry basket. If I could direct your
15 attention back to page 50 of Exhibit 46. So directing your
16 attention back to the Government's Exhibit 46, page 50, what
17 is that again just to direct everybody back to where we left
18 off?

19 A. It's a letter addressed to Mico. It was contained in
20 the Quran that was inside the white basket.

21 Q. Okay. And I think just before the lunch break, I had
22 directed your attention to the bottom of the letter. I will
23 have my colleague blow that up so it's just a little bit
24 easier for the jury to read. And if you could again read
25 that for the record.

1 A. Love you, Bro. Be a good Muslim and invite people to
2 Islam. The Xbox is yours. Yasin Rafiq Abdul Raheem.

3 Q. And what is actually the entire -- up in the upper
4 right-hand corner, what does that say?

5 A. Prayer carpet and Islamic books are yours.

6 Q. Going back to the letter, if you could just read the
7 first I guess it's six lines?

8 A. It says Bis Millah. Salam Alaikum, Bro. Here is the
9 list. Give letter to Dad Wednesday. Give Mom letter. Call
10 her for her address. Would you like me to continue?

11 Q. And Special Agent Sirkо, based on your training and
12 experience, did it appear to you that this white laundry
13 basket was something that the person intended to take with
14 them on an airplane?

15 A. No, ma'am.

16 MR. THOMAS: Objection. Speculation and lacks
17 foundation.

18 THE COURT: Sustained. So the answer to the last
19 question is ordered stricken, ladies and gentlemen. You're
20 to disregard it.

21 BY MS. DeWITT:

22 Q. Special Agent Sirkо, based upon -- these letters were
23 found inside the white laundry basket; correct?

24 A. That's correct.

25 Q. Um, and is it fair to say that these letters seemed to

1 suggest that the person -- a person is supposed to deliver
2 them sometime later?

3 A. Yes.

4 Q. And later than the day in which they were seized?

5 A. Yes.

6 Q. That they were supposed to deliver one of the letters to
7 Daddy on Wednesday?

8 A. Yes, ma'am.

9 Q. And one of the letters to mom later?

10 A. Yes.

11 Q. And this particular letter is addressed to a person by
12 the name of Mico.

13 A. Mico, that's correct.

14 Q. And do you know who Mico was?

15 A. No, I do not.

16 Q. And if I could direct your attention just a little lower
17 in the letter where it says . . . thank you. If you could
18 read that.

19 A. Along with the letter and add me on Facebook. Only way
20 I can stay in contact with you and family. And my email is
21 rafiqabdulraheem@gmail.com.

22 Q. So Special Agent Sirko, based on your training and
23 experience, did it appear that this letter was intended to be
24 left behind?

25 A. Yes.

1 Q. Okay. And this letter was together with other items in
2 the white laundry basket; correct?

3 A. That's correct.

4 Q. Including one of the addresses referred to in this
5 letter which is the Xbox.

6 A. Yes, ma'am.

7 Q. Okay. Based on that, Special Agent Sirko, is it your
8 opinion that the items in this white laundry basket were
9 intended to be left behind?

10 A. Yes.

11 MR. THOMAS: Objection. Again, it's speculation,
12 lacks foundation, calls for an expert opinion.

13 THE COURT: Overruled.

14 THE WITNESS: Yes.

15 MS. DeWITT: Thank you. And if I could now ask my
16 colleague to put page 52 of Exhibit 46 up on the screen.

17 Q. Now, we had touched upon this just before the lunch
18 hour, but if could direct your attention again to just the
19 bottom of this letter, please tell the family.

20 A. Yes, ma'am.

21 Q. Okay. And again, who is this letter -- this is -- who
22 is this letter directed to?

23 A. This letter is addressed to Daddy.

24 Q. And if you could read in the record starting with please
25 what it says in this letter.

1 A. Please tell the family I love them dearly, and please
2 accept Islam so God willing you don't end in hell fire. I am
3 already in Turkey, Istanbul. Ralph Kenneth Caseres DeLeon.

4 Q. And again, Special Agent Sirko, would it be your opinion
5 that this was letter that was intended to be left behind?

6 A. Yes, ma'am.

7 Q. And if you could now turn your attention to 46-54. Now,
8 you testified earlier that some of the letters were -- in
9 whole or in part were in another language, but in this
10 letter, is there some parts particularly at the top of the
11 letter that you can read that are in English? And I'll
12 assist you with blowing up a part so it's a little easier for
13 the jury to follow along. Thank you. And for the record,
14 can you read the parts that are in English in this letter?

15 A. In the name of Allah, the most gracious and merciful.
16 November 12, 2012. Dear Mom, if you are reading this, Ibig
17 sabihi, then America plane ticket, Istanbul, Turkey.

18 Q. Okay. And again, is this the letter that was found in
19 the Quran inside the white laundry basket that was addressed
20 to Mommy?

21 A. Yes, ma'am.

22 Q. And now, if I could ask to have what's been marked for
23 identification as Government Exhibit 11-A25. I think that's
24 one item in the basket that we overlooked before the lunch
25 hour. Special Agent Sirko, what is contained in Government's

1 Exhibit 11-A25?

2 A. It's a white in color Xbox 360.

3 MS. DeWITT: And at this time, the government would
4 move to admit what's been marked for identification as
5 Government's Exhibit 11-A25.

6 THE COURT: Any objection?

7 MR. LARSEN: No objection.

8 MR. THOMAS: No, Your Honor.

11 (Exhibit 11-A25 admitted.)

12 MS. DeWITT: If you could show that to the jury.

13 Q. And again, all of these items that you've testified to
14 just now and just right before the lunch hour were all the
15 items that were originally contained within the white laundry
16 basket; is that correct?

17 A. Yes, ma'am, that's correct.

18 MS. DeWITT: At this time, I'd ask to have what's
19 been previously marked for identification as Government's
20 Exhibit 12 placed before the witness? And while that's being
21 done, if I could ask my colleague to please display
22 Government's Exhibit 46 at page nine.

23 Okay. And starting with the photograph that's
24 being displayed, Government's Exhibit 46 at page nine, what
25 does that depict?

1 A. That is a white plastic bag, and there were -- it
2 contained several items of clothing.

3 Q. And if you could now look at the next page which is
4 government's Exhibit 46 at ten, what is depicted in that
5 photograph?

6 A. Those are the contents of that plastic bag.

7 Q. And if I could now ask to have what's been -- I'm sorry.
8 Going back to Government's Exhibit 12, what is that?

9 A. It's the plastic bag that contained the items of
10 clothing that are depicted on the picture.

11 Q. And at this time, it's empty.

12 A. That's correct.

13 Q. And I'd now ask to have what has been previously marked
14 for identification as Government's Exhibit 12-A1 through
15 12-A38. Have you had an opportunity, Special Agent Sirko, to
16 look at that particular box of exhibits before?

17 A. Yes, ma'am.

18 Q. And did you have an opportunity to confirm the items in
19 that box?

20 A. Yes, I did.

21 Q. And are the items in that box to the best of your
22 knowledge consistent with the items that are depicted in the
23 photograph that's being displayed right now?

24 A. Yes, ma'am.

25 Q. And those are -- are those items some or all of the

1 items that came out of the white plastic bag?

2 A. Yes, those are all of the items that came out of the
3 white bag.

4 Q. And can you describe for the jury, I think there's 38
5 items in there, just generally what's contained in the box?

6 A. There's some shorts, some boxers, T-shirts, some pants.

7 MS. DeWITT: And at this time, I would ask that
8 what's been previously marked for identification as
9 Government's Exhibit 13 be placed before the witness. And if
10 I could ask my colleague to put up on the screen what's been
11 previously identified as Government's Exhibit 46 at page 13.

12 Q. Starting with the picture that's on the screen at this
13 time, Special Agent Sirk, what -- what's depicted in that
14 photograph?

15 A. It is a green in color backpack and the items that were
16 contained within that backpack.

17 Q. And if you've got -- do you have Exhibit 13 in front of
18 you?

19 A. Yes, ma'am, I do.

20 Q. And what is that?

21 A. That's the backpack that's depicted on the picture.

22 Q. Okay. So those are the items that came out of
23 Exhibit 13.

24 A. Yes.

25 MS. DeWITT: At this time, I would ask to have what

1 has been previously marked for identification as Government's
2 Exhibit 13-A1 placed in front of the witness.

3 Q. And what is Government's Exhibit 13-A1?

4 A. It's a Toshiba laptop that's depicted there at the
5 bottom right-hand portion of the picture.

6 Q. And for the record, can you read the serial number for
7 that Toshiba laptop?

8 A. Yes. The serial number is 6Charlie012481Quebec.

9 Q. And just for the record, when you say Quebec, that
10 stands for Q?

11 A. Yes, ma'am.

12 MS. DeWITT: At this time, I would ask to move
13 Government's Exhibit 13-A1 into evidence.

14 THE COURT: Any objection?

15 MR. LARSEN: No, Your Honor.

16 THE COURT: Mr. Thomas, any objection to
17 Exhibit 13?

18 MR. THOMAS: No, Your Honor.

19 THE COURT: Thank you. It's ordered admitted. You
20 may publish.

21 (Exhibit 13-A1 admitted.)

22 MS. DeWITT: At this time, could I ask to have
23 Government's Exhibit 13-A2 be placed in front of the witness?

24 Q. And what is that item?

25 A. It's a passport for the Philippines. It's depicted on

1 the picture in the middle, center of the picture.

2 Q. And is that a current passport?

3 A. Yes, ma'am.

4 Q. And can you look inside?

5 A. It's a passport, Filipino passport with the name of
6 Ralph Kenneth DeLeon with an expiration date of . . . the
7 16th of October 2017 -- or strike that. It might be 2016 of
8 October.

9 MS. DeWITT: And if I can ask my colleague for
10 Exhibit 46-17.

11 Q. What does that depict?

12 A. That is the inside of the passport showing Mr. DeLeon.
13 This is the passport that was contained within the green
14 backpack.

15 Q. So -- and there is an -- and what is the issuance date
16 on that passport?

17 A. It's the 17th of October 2012.

18 MS. DeWITT: And if I could ask to have the
19 following exhibits placed in front of the witness:
20 Government's Exhibit 13-A3, A4, A5, A6, A7 and A8, please.
21 And if you could just take them one by one instead of taking
22 them all out together, it might make it a little less
23 confusing. What is Government's Exhibit A3?

24 A. It's a pair of socks.

25 Q. And what is Government's Exhibit A4?

1 A. It's a key chain with a lanyard on it.

2 Q. And what is Government's Exhibit 13-A5?

3 A. A pair of glasses.

4 Q. And what is Government Exhibit 13-A6?

5 A. It's a Manchester United scarf, red in color.

6 MS. DeWITT: And at this time, Your Honor, I would
7 move to admit Government's Exhibits 13-A3 through 13-A6.

8 THE COURT: Any objections?

9 MR. LARSEN: No, Your Honor.

10 MR. THOMAS: No, Your Honor.

11 THE COURT: All right. They're ordered admitted.
12 You may publish.

13 (Exhibits 13-A3 through A6 admitted.)

14 BY MS. DeWITT:

15 Q. And Special Agent Sirko, if you could show the jury
16 Exhibit 13-A6.

17 MS. DeWITT: And just to back up for a second, Your
18 Honor, can I move to admit Government's Exhibit 13-A2, the
19 passport?

20 THE COURT: Any objection to 13-A2?

21 MR. LARSEN: No.

22 MR. THOMAS: No.

23 THE COURT: Ordered admitted, and you may publish.

24 (Exhibit 13-A2 admitted.)

25

1 BY MS. DeWITT:

2 Q. And do you still have 13-A2 in front of you?

3 A. Yes, I do.

4 MS. DEWITT: With the Court's permission, could you
5 show that to the jury?

6 THE COURT: Go ahead.

7 MS. DeWITT: I'd ask to have at this time what's
8 been previously marked for identification as Government's
9 Exhibit 13-A7 and 13-A8 placed before the witness.

10 Q. What is 13-A7?

11 A. 13-A7 is a black T-shirt with blue and white lettering
12 on it.

13 Q. And what is -- and that's one of the items that was
14 found?

15 A. Yes, ma'am, that's correct.

16 Q. And can I ask to have 13-A8 placed in front of you or is
17 that already in front of you?

18 A. Yes, I have it.

19 Q. What's in that item?

20 A. It's a sweatshirt, jacket, zip-up.

21 Q. And again, both of these were additional items found in
22 the plastic bag?

23 A. These were in the -- the green backpack.

24 Q. Sorry, thank you.

25 MS. DeWITT: At this time, I would move to admit

1 Government's Exhibits 13-A7 and 13-A8.

2 THE COURT: Any objections to A7 or A8?

3 MR. LARSEN: No objection.

4 | MR. THOMAS: No.

5 THE COURT: A7 and A8 are ordered admitted, and you
6 may publish.

7 (Exhibit 13-A7, A8 admitted.)

8 MS. DeWITT: I'd ask to have placed before the
9 witness what's been previously marked for identification as
10 Government's Exhibit 13-A9.

11 Q. What is contained in Government's Exhibit 13-A9?

12 A. It's an Xbox 360 warranty card with a limited 90-day
13 warranty information on it as well as has some information
14 about Xbox live.

15 Q. And does it have some handwriting on it?

16 A. Yes, ma'am, there is some handwriting.

17 Q. What is the handwriting?

18 A. It has a name, Sohiel Omar Kabir, and then it has an S
19 and L and several smiley faces.

20 Q. And looking at Government's Exhibit 46 at page 18, on
21 the left side of this exhibit, is that the handwriting that
22 you're referring to?

23 A Yes ma ' am

24 Q. I'm sorry, excuse me. My dyslexia is kicking in. On
25 the right-hand side

1 A. That's correct.

2 Q. Thank you.

3 MS. DeWITT: If I could now ask to have what's been
4 previously marked for identification as Government's 13-A10
5 through 14.

6 THE COURT: Ms. DeWitt, I don't think you've asked
7 to have -- what's being displayed right now is the warranty
8 card; correct?

9 MS. DeWITT: Yes, Your Honor.

10 THE COURT: You didn't ask to have it admitted.

11 MS. DeWITT: Right.

12 THE COURT: It's 13-9; correct?

13 MS. DeWITT: And just for the record, Your Honor,
14 thank you for catching that for me, but that particular
15 exhibit that's being displayed, it had actually been moved
16 in --

17 THE COURT: Oh, it has.

18 MS. DeWITT: -- already. That is, um, --

19 THE COURT: That's the photograph.

20 MS. DeWITT: -- the photograph that's contained in
21 the photographic set.

22 THE COURT: All right. Thank you.

23 MS. DeWITT: At this time, I would ask to move into
24 evidence Government's Exhibit 13-A9.

25 THE COURT: Any objection?

1 MR. LARSEN: No, Your Honor.

2 MR. THOMAS: No, Your Honor.

3 THE COURT: Ordered admitted.

4 (Exhibit 13-A9 admitted.)

5 BY MS. DeWITT:

6 Q. And Special Agent Sirko, I believe now what you have in
7 front of you is 13-A10, 11, 12, 13 and 14; is that correct?

8 A. Yes, ma'am.

9 Q. Okay. And can you for the record identify what each of
10 those items are?

11 A. 13-A10 is a black pen. 13-A11 is also a pen, appears to
12 be black in color. 13-A12 is a pencil. 13-A13 is a red pen,
13 and 13-A14 is a lighter, yellow in color.

14 Q. And these are items that were found in the green
15 Jansport backpack; is that correct?

16 A. Yes, ma'am, that is correct.

17 MS. DeWITT: If I could now request that these
18 items be moved into evidence, Your Honor?

19 THE COURT: All right. That's 13-A10 through 14;
20 correct?

21 MS. DeWITT: That's correct, Your Honor.

22 THE COURT: Any objections?

23 MR. LARSEN: No, Your Honor.

24 MR. THOMAS: No, Your Honor.

25 THE COURT: Ordered admitted. You may publish.

1 (Exhibit 13-A10 through 14 admitted.)

2 MS. DeWITT: And I don't think there's any need to
3 publish these particular items. Thank you, Your Honor.

4 If I could now ask to have Government's
5 Exhibit 13-A19 and 13-A20 placed in front of the witness.

6 Q. And what are those two items?

7 A. 13-A19 is a -- it's like a Manila -- piece of Manila
8 folder. It's depicted on the picture that was previously
9 shown. That'd be 46-13. It's located adjacent to the green
10 backpack in the picture. It's got some handwriting on it.
11 And the 13-A20 is a piece of it's looks like cardboard with
12 handwriting on it as well.

13 MS. DeWITT: And at this time, the government would
14 move to admit Government's Exhibit 13-A19 and 20.

15 THE COURT: Any objections?

16 MR. LARSEN: No, Your Honor.

17 MR. THOMAS: No, Your Honor.

18 THE COURT: Okay. Ordered admitted. You may
19 publish.

20 (Exhibit 13-A19 and 20 admitted.)

21 MS. DeWITT: At this time, I'd ask to have placed
22 in front of the witness Government Exhibit 14. And while
23 that's being handed to the witness, if I could ask my
24 colleague to put Exhibit 46, page 20 up on the screen.

25 Q. Special Agent Sirk, what is depicted in this

1 photograph?

2 A. These were miscellaneous items that were within the car.
3 The owner of the vehicle was asked if these items belonged to
4 him. He said no so then they were seized subsequent to the
5 arrest.

6 Q. In the previous testimony of Special Agent Staab, he
7 talked about and introduced the contents of this. Is this
8 the way that they appeared the day that you executed the
9 follow-on search warrant for the items in the vehicle?

10 A. Yes, ma'am.

11 MS. DeWITT: And if I could ask my colleague to put
12 up on the screen Exhibit 46 at page 21.

13 Q. What's depicted there?

14 A. These are the contents of the box that was depicted in
15 the previous picture. These are the items that were inside
16 the vehicle.

17 Q. And could you just briefly describe what's depicted in
18 that picture?

19 A. Uh, there's several books, uh, related to Islam, some
20 prayer robes -- or some, excuse me, some prayer rugs there on
21 the right-hand side of the table.

22 MS. DeWITT: At this time, I'd ask to have what's
23 been previously identified as Government's Exhibit 15 placed
24 before the witness. And if I could ask my colleague to put
25 up what's been previously moved into evidence as Government's

1 46 at page 24.

2 Q. And Special Agent Sirko, is Government's Exhibit 15 an
3 item -- what is that?

4 A. It's an American Tourister suitcase that was contained
5 within the vehicle and seized subsequent to the arrest.

6 Q. And is this one of the items that you searched the
7 content of?

8 A. Yes, ma'am.

9 MS. DeWITT: At this time, if I could ask my
10 colleague to put up page 25 of Exhibit 46.

11 Q. And what's depicted in Government's Exhibit 46 at page
12 25?

13 A. This is, uh, the picture that we took of all the items
14 within the suitcase. So we laid 'em all out on the table as
15 we did with all the other items that were in the vehicle so
16 this is the contents of that bag.

17 MS. DeWITT: And at this time, I'd ask to have
18 what's been marked for identification as Government's
19 Exhibit 15-A1 through 15-A58 placed in front of the witness.

20 Q. Special Agent Sirko, what is Government's Exhibit 15-A1
21 through 15-A58?

22 A. These are the articles of clothing that were within the
23 backpack -- excuse me, the suitcase.

24 Q. And before testifying today, did you have an opportunity
25 to go through fifty some odd item that are in that box?

1 A. Yes, ma'am, I did.

2 Q. And were you able to confirm the things that are in that
3 box are in fact the things that you seized that day that were
4 contained inside the blue Tourister suitcase?

5 A. Yes.

6 Q. And can you just generally just describe for the jury
7 what was in -- what's in that box?

8 A. Various T-shirts, um, some stocking caps, socks, boxer
9 briefs, some flannel button-down shirts, various articles of
10 clothing.

11 MS. DeWITT: At this time, if I could ask to have
12 what's been marked for identification as Government's
13 Exhibit 59, 60 and 61 placed before the witness.

14 Q. Do you have Government's Exhibit 59 in front of you?

15 A. Yes, 59 through 65.

16 Q. What is -- what is Government's Exhibit 59?

17 A. I have here various tennis shoes, a pair of tennis
18 shoes, some leather slippers it looks like and a pair of -- a
19 black pair of Adidas sandals.

20 Q. And Special Agent Sirkо, can you see -- can you see
21 those items in the photograph that's displayed?

22 A. Yes, ma'am. They're over against the wall on the
23 right-hand corner. There's also a, uh -- see the trash bag
24 that's there. The trash bag is inside this bag as well --
25 excuse me, inside this box.

1 MS. DeWITT: At this time, Your Honor, the
2 government would move admit Government's Exhibit 15-A59
3 through 61.

4 THE COURT: 15-A59 through 61. Any objections?

5 MR. LARSEN: No, Your Honor. I thought they all
6 related to 59. The tennis shoes, the slippers, the sandals,
7 that's all separate items?

8 BY MS. DeWITT:

9 Q. Special Agent Sirko, do you have three different
10 exhibits in front of you? 59, 60 and 61?

11 A. Yes.

12 Q. Let me just be clear. 15 dash A59, 15 dash A60 and 15
13 dash A61, do you have all three of those items in front of
14 you?

15 A. Yes.

16 MS. DeWITT: Okay. At this time, the government
17 would move to admit Government's Exhibits 15-A59, 15-A60 and
18 15-A61.

19 THE COURT: Any objection?

20 MR. LARSEN: No, Your Honor.

21 THE COURT: They're ordered admitted, and you may
22 publish.

23 (Exhibits 15-A59, A60, A61 admitted.)

24 MS. DeWITT: If you could please show them to the
25 jury. If I could now ask to have what's been previously

1 marked for identification as Government's Exhibit 15-A65
2 place before the witness.

3 Q. And what is that?

4 A. It's a pair of Nike sneakers, gray in color.

5 Q. And is this also an item that you found in the blue
6 American Tourister suitcase?

7 A. Yes, ma'am.

8 Q. And can you see that depicted in the photograph that's
9 on the screen?

10 A. Uh, I don't see it here. It might be over there in the
11 corner, but I can't confirm that.

12 MS. DeWITT: At this time, I would move to admit
13 Government's Exhibit 15-A65.

14 THE COURT: Any objection?

15 MR. LARSEN: No, Your Honor.

16 MR. THOMAS: No, Your Honor.

17 THE COURT: Thank you. Ordered admitted, and you
18 may publish.

19 (Exhibit 15-A65 admitted.)

20 MS. DeWITT: At this time, if I could ask to have
21 placed in front of Special Agent Sirkо what has been
22 previously marked for identification as Exhibit 17.

23 Q. Do you recognize that exhibit?

24 A. Yes, ma'am.

25 Q. What is it?

1 A. It's a Blackberry cellular phone that was on the person
2 of Mr. DeLeon at his arrest.

3 Q. So on November 16th, the day that you took Defendant
4 DeLeon into custody, are you saying this was in his
5 possession?

6 A. That's correct. It was this item as well as his wallet.
7 That was a pocket litter that was given to Special Agent Wade
8 Lee when we took custody of Mr. DeLeon.

9 Q. And you reference pocket litter, are you referring to
10 the items of evidence that we looked at just before lunch
11 that were -- that you had a xerox copy of?

12 A. Yes, ma'am, that's correct.

13 Q. Okay. And is there a SIM card inside that Blackberry
14 curve?

15 A. Yes, there is.

16 Q. And I'm sorry, what kind of Blackberry is it? Does it
17 identify the nature of the Blackberry? The model?

18 A. I don't know the specific model. I remember looking at
19 the phone when we were there commenting it was the same phone
20 that we were issued, we being the special agents in the FBI.

21 Q. And I'm sorry, I didn't give you a chance to answer my
22 last question. Is there a SIM card in the phone?

23 A. Yes, ma'am, there is.

24 MS. DeWITT: And at this time, the government would
25 move to admit Government's Exhibit 17.

1 THE COURT: Any objection to 17?

2 MR. LARSEN: No, Your Honor.

3 THE COURT: Thank you.

4 MR. THOMAS: No, Your Honor.

5 THE COURT: Thank you.

17 is ordered admitted. You may publish.

7 (Exhibit 17 admitted.)

8 BY MS. DeWITT:

9 Q. And Special Agent Sirk, can you both show the jury the
10 exhibit, the actual Blackberry as well as take a minute to
11 show them the SIM card that's contained in the Blackberry?

12 A. That's the SIM card in place.

13 MS. DeWITT: And I have no further questions for
14 this witness at this time.

15 THE COURT: Thank you.

16 Mr. Larson? You may cross-examine.

17 MR. LARSEN: Thank you, Your Honor.

18 | CROSS-EXAMINATION

19 BY MR. LARSEN:

20 Q. Good afternoon, Agent Sirkos.

21 A. Good afternoon, sir.

22 Q. I believe you began your testimony by saying you work in
23 Human Intelligence in the FBI so part of your function is to
24 recruit individuals.

25 A. That's correct.

1 Q. Do you have any knowledge of an informant who worked for
2 the FBI in this case?

3 A. I don't have specific knowledge, no.

4 Q. Okay. We heard a lot about the things you found and the
5 items that you searched up in the car. You found a comb; is
6 that correct?

7 A. Yes.

8 Q. You found a pen. You found a black pen, in fact; is
9 that correct?

10 A. Yes.

11 Q. You found a red pen as well.

12 A. That's correct.

13 Q. You also found flip flops.

14 A. Yes.

15 Q. And you found tennis shoes?

16 A. Yes.

17 Q. And you also found an Xbox; correct?

18 A. Yes.

19 Q. And that's a machine to play video games on; is that
20 right?

21 A. That's correct.

22 Q. And I was unclear. Was it one Xbox or was it two
23 Xboxes?

24 A. One Xbox.

25 Q. Along with the Xbox, you found video games to play on

1 the Xbox; is that correct?

2 A. Yes, that's correct.

3 Q. You found a game NBA 12; is that correct?

4 A. Yes.

5 Q. And that's a basketball game, I would assume.

6 A. Yes.

7 Q. And you also found Tiger Woods game.

8 A. Yes, that's correct.

9 Q. And that would be a golf game to play; is that right?

10 A. Yes.

11 Q. You also found a soccer game.

12 A. Yes.

13 Q. And you also found a number of controllers you said; is
14 that right?

15 A. That's correct.

16 Q. And these would be used to play the games.

17 A. Yes.

18 Q. You also found sports paraphernalia, I believe. You
19 mentioned a Manchester United scarf.

20 A. Yes.

21 Q. And Manchester United, that's a soccer team; is that
22 correct?

23 A. That's correct.

24 Q. Along with the scarf, I believe you found a -- or did
25 you find a basketball jersey?

1 A. Yes.

2 Q. And did you also find a Miami Dolphins T-shirt?

3 A. Yes.

4 Q. In addition to these items, I believe you talked about
5 some letters that you found.

6 A. Yes, that's correct.

7 Q. Uh, there was a letter addressed to Daddy; is that
8 right?

9 A. Yes.

10 Q. And I think we recall we saw Daddy -- after Daddy, we
11 saw two exclamation points, and a little smiley face next to
12 the Daddy?

13 A. Yes.

14 Q. And we also saw a letter addressed to Mommy; is that
15 correct?

16 A. Yes.

17 Q. And I believe you read some of the texts from a couple
18 of those letters; is that right?

19 A. That's correct.

20 Q. Did you read the letters in full at anytime?

21 A. The day that we did the search when we were taking the
22 pictures of the letters, but again, as I stated earlier, I
23 don't read that particular language so I did not read them in
24 full per your question.

25 Q. Certainly. Did you read the English language that

1 | appeared in the letters?

2 A. Yes.

3 Q. The letters didn't say I'm going overseas to kill
4 people, did they?

5 A. No.

6 Q. And the letters didn't say I'm going to join Al-Qa'ida,
7 did they?

8 A. No.

9 Q. And the letters didn't say I'm going to join the
10 Taliban, did they?

11 A. No.

12 Q. And the letters didn't say I'm going overseas to become
13 a terrorist, did they?

14 MS. DeWITT: Objection, Your Honor.

15 THE WITNESS: No.

16 MS. DeWITT: The letters speak for themselves.

17 THE COURT: Overruled.

18 BY MR. LARSEN:

19 Q. Thank you, Agent. Moving from what you did find because
20 we've talked a lot about the things that you found in these
21 bags, let's talk a little bit about what you didn't find.

22 You didn't find any guns in this search, did you?

23 A. I did not.

24 Q. You didn't find any knives in this search, did you?

25 A. No.

1 Q. You didn't find any ammunition in this search, did you?

2 A. No.

3 Q. Any dynamite.

4 A. No.

5 Q. You didn't find any manuals on how to operate
6 explosives.

7 A. No.

8 Q. You didn't find any manuals on how to operate guns.

9 A. No.

10 Q. You didn't find any instructional DVDs on any of those
11 topics.

12 A. No.

13 Q. You didn't find any -- I believe you said you didn't
14 find explosives of any kind. Um, did you find any
15 instructions on how to make explosives?

16 A. Not to my recollection, no.

17 Q. You didn't find any instructions on how to build any
18 explosives.

19 A. No.

20 Q. Did you find any instructions on how to assemble
21 explosives?

22 A. No.

23 Q. And did you find any instructions on how to use
24 explosives?

25 A. Again, not to my knowledge.

1 Q. Thank you, Agent. Did you find any terrain maps --

2 A. No.

3 Q. -- in this search?

4 A. No.

5 Q. No terrain maps of Afghanistan.

6 A. No.

7 Q. No terrain maps of Yemen.

8 A. No.

9 Q. No terrain maps of any country, in fact.

10 A. No.

11 Q. Thank you. Did you find any information about military
12 bases in the items you searched?

13 A. No.

14 Q. Any schematics or directions to U.S. military bases
15 anywhere in the world?

16 A. No.

17 Q. Thank you, Agent. Did you see any pictures of any
18 military bases?

19 A. I did not.

20 Q. Any directions on how to reach any military bases?

21 A. No.

22 Q. Thank you. Did you find any information -- did you find
23 any lists of U.S. military personnel?

24 A. No, sir.

25 Q. Did you find any lists of any U.S. government employees

1 of any kind?

2 A. No.

3 Q. Thank you, Agent. You didn't find any information about
4 U.S. federal buildings, did you?

5 A. I did not.

6 Q. No photographs or maps to federal buildings.

7 A. No.

8 Q. Thank you. In looking, you mentioned some books that
9 you found, some literature. You mentioned the Quran and some
10 other books. Did you find any books on military training in
11 your search?

12 A. No, sir.

13 Q. And did you find any books on survival training in your
14 search?

15 A. No.

16 Q. Thank you, Agent. We also talked a little bit about IDs
17 and about passports. Did you find any fake IDs in your
18 search?

19 A. No.

20 Q. Did you find any fake passports in your search?

21 A. No.

22 Q. We also talked a lot about clothing. You said you found
23 boxer shorts; is that right?

24 A. Yes.

25 Q. And you found T-shirts.

1 A. That's correct.

2 Q. And you found flip flops, I believe.

3 A. Yes.

4 Q. Did you find any cold weather gloves in your search?

5 A. No, not to my recollection.

6 Q. Did you find any cold weather overalls? Any kind of
7 parkas, anything like that?

8 A. Parkas, no.

9 Q. Did you find any snow boots in your search?

10 A. No.

11 Q. Did you find any cold weather masks or goggles in your
12 search?

13 A. No.

14 Q. Thank you, Agent. Do you find any foreign currency in
15 your search?

16 A. No, sir.

17 Q. Any travelers checks in your search?

18 A. No, sir.

19 Q. Thank you, Agent.

20 MR. LARSEN: Thank you, Agent.

21 THE COURT: Thank you.

22 Mr. Thomas.

23 MR. THOMAS: Thank you, Your Honor.

24

25

CROSS-EXAMINATION

BY MR. THOMAS:

Q. Afternoon, Agent Sirk. How are you doing?

A. Good afternoon. I'm doing well.

Q. Displayed on the screen should be Exhibit 16-A, the first page?

A. Yes, sir.

Q. You had referred to it during your part of your direct testimony. Do you remember?

A. That's correct.

Q. If you would highlight the document in the middle left portion of the page and zoom in on that for me. See that portion that I circled in blue?

A. Yes.

8. All right. That's a movie ticket for the movie Looper?

A. Yes, that's correct.

Q. Agent Sirk, behind you -- or excuse me, on your monitor now is 16-A, the second page. The upper left hand portion of the page I just circled in blue appears to be a Cal-State University of San Bernardino student ID card; is that correct?

A. Yes, sir, that's correct.

Q. And then the other document I'm circling appears to be an Ontario High School student ID card. Both of these were for Mr. DeLeon; correct?

1 A. Yes, sir.

2 Q. There's also various fast food and meat markets and auto
3 ID cards as well as some credit cards for Mr. DeLeon?

4 A. Yes, sir.

5 MR. THOMAS: Thank you.

6 I have no further questions.

7 THE COURT: Ms. DeWitt, redirect?

8 REDIRECT EXAMINATION

9 BY MS. DeWITT:

10 Q. Special Agent Sirko, Mr. Larson asked you a couple of
11 questions about some Xbox video games that you would put in
12 the Xbox?

13 A. Yes, ma'am.

14 Q. As well as a question about the one Xbox that you found.
15 And my question for you is are -- all of those items that he
16 asked you about, the video games and the Xbox, were all of
17 those items contained in the white laundry basket?

18 A. Yes, they were.

19 Q. And again, those were with the letters to Mr. DeLeon's
20 mom, his father and his brother; is that correct?

21 A. Yes, ma'am, that is correct.

22 Q. They were together with the items that you believed were
23 intended to be left behind.

24 A. Yes, ma'am.

25 MS. DeWITT: No further questions.

1 THE COURT: Thank you. You may step down.

2 You may call your next witness.

3 MR. CHIU: Your Honor, the United States calls
4 Special Investigator Schyler Beaty.

5 THE CLERK: Sir, please raise your right hand.

6 (Witness sworn.)

7 THE CLERK: Thank you. You may be seated.

8 Please state your full name and spell it for the
9 record.

10 THE WITNESS: My name is Schyler Beaty. First name
11 is spelled S-c-h-y-l-e-r. Last name is Beaty, B-e-a-t-y.

12 THE COURT: Thank you. You may inquire.

13 | DIRECT EXAMINATION

14 BY MR. CHIU:

15 Q. What do you do for living?

16 A. I'm a supervising investigator with the San Bernardino
17 County District Attorney's Office.

18 Q. And how long have you been a supervising investigator
19 with the San Bernardino County District Attorney's Office?

20 A. Less than two months.

21 Q. Can you describe for the members of the jury what some
22 of your responsibilities are as a supervising investigator?

23 A. Yes. I oversee the operations of our Bureau of
24 Investigation Desert Division which includes our Victorville
25 office and our office in Joshua Tree.

1 Q. How long have you been with law enforcement?

2 A. Almost 16 years.

3 Q. Can you just generally describe some of the basic
4 training that you went through as an member of law
5 enforcement?

6 A. Yes. I attended the Los Angeles Police Department
7 Police Academy in 1998, successfully completed the Academy.
8 And then I worked for City of Los Angeles, Los Angeles Police
9 Department as a patrol officer and moved on, transferred to
10 the City of Orange Police Department where I was also a
11 patrol officer. And I've also worked for South Lake Tahoe
12 Police Department where I was a patrol officer, a field
13 training officer and a narcotics detective as well with the
14 California DOJ BNE Task Force.

15 Q. In your experience as an investigator and with law
16 enforcement, did you develop training in the area of
17 collection of evidence?

18 A. Yes.

19 Q. Can you describe some of that experience, please?

20 A. Yes. Had training in the Academy back in 1998. There's
21 been ongoing training just as a police officer in the field
22 and as a detective. And would you like me to go into the
23 actual evidence collection?

24 Q. Yes, please.

25 A. Okay. And typically, for example, for a residence,

1 prior to searching for and seizing evidence, we would
2 photograph a location. That way we can show the appearance
3 of the location before we start. We would then search for
4 evidence and seize it, catalog that evidence, take photos of
5 that evidence as well as take photos when we're done to show
6 the, uh, condition of the location when we're done with that.
7 And once we have all the evidence, we package it, and then
8 we go ahead and book it into an evidence room.

9 Q. In your capacity at being a member of law enforcement,
10 have you conducted search warrants?

11 A. Yes.

12 Q. Approximately how many search warrants have you
13 executed?

14 A. I would approximate a few dozen.

15 Q. And are you familiar with the process of obtaining a
16 search warrant?

17 A. Yes.

18 Q. Could you just generally, briefly describe it for
19 background, please?

20 A. Sure. In an affidavit, I would write down my probable
21 cause. It wouldn't necessarily have all the information
22 pertaining to the case but the information that's relevant
23 and necessary for the sake of based on probable cause
24 obtaining a search warrant so I could then go ahead and
25 search a location or maybe it's a computer, something like

1 that.

2 Q. And is a search warrant a court authorized document
3 based on your statement of probable cause --

4 A. Yes.

5 Q. -- as an example?

6 A. Yes.

7 Q. Now, you indicated you've been a supervising
8 investigator for approximately two months; is that correct?

9 A. Correct.

10 Q. What did you do before you were a supervising
11 investigator?

12 A. My title was senior investigator with the District
13 Attorney's Office.

14 Q. Were you assigned to a particular squad?

15 A. Yes.

16 Q. And what squad was that?

17 A. Uh, since 2009, I was assigned to the Public Integrity
18 Unit for the District Attorney's Office as well as a task
19 force officer with the Inland Regional Corruption Task Force
20 with FBI.

21 Q. Can you just briefly explain a little more what exactly
22 is a task force, Officer?

23 A. Yes. In my capacity as state law enforcement officer, I
24 can also be a member of a task force meaning what I've -- in
25 order to do that, I'm cross designated or cross sworn as a

1 Special Deputy United States Marshall so I can work with the
2 FBI and investigate complaints of criminal conduct when it
3 comes to either federal law or state law.

4 Q. And turning your attention to role in this case, were
5 you involved in the investigation of this case?

6 A. Yes.

7 Q. Can you explain how you were involved?

8 A. Yes. I was asked to assist with the execution of a
9 search warrant at a residence.

10 Q. And where was that search warrant executed?

11 A. At 312 Manzanita Court in Ontario, California.

12 Q. And prior to executing the search warrant at 312
13 Manzanita Court, were you briefed as to that particular
14 location?

15 A. Yes.

16 Q. Were you briefed as to who lived at that location?

17 A. Yes.

18 Q. And who lived at that location?

19 A. I was briefed regarding the fact that Ralph DeLeon lived
20 at that location.

21 Q. And that would be the defendant in this case; correct?

22 A. Yes.

23 Q. What happened when you executed the search warrant?

24 A. Our team arrived. We, uh, knocked on the door,
25 announced our presence, and there was no answer at the door

1 after repeatedly acknowledging or advising of our presence.

2 And once there was no response at the door and given a
3 reasonable amount of time, we made entry into that location
4 based on the search warrant.

5 Q. And what -- approximately what time did you execute the
6 search warrant?

7 A. Approximately 9:45 in the morning.

8 Q. What date?

9 A. That was on November 16th of 2012.

10 Q. So just to be clear November 16th, 2012 at approximately
11 nine . . .

12 A. Approximately 9:45 in the morning.

13 Q. About 9:45 when you entered the residence, nobody was in
14 the house.

15 A. Correct.

16 Q. What was your role in conducting the search?

17 A. I was, uh -- I took on the role of the team leader for
18 the search of the location.

19 Q. Can you give a brief description as to what a team
20 leader does during an execution of the search warrant?

21 A. Yes. Basically overseeing the search of and the
22 collection and cataloging of evidence that we find and seize.

23 Q. Could you just give a general example? So, for example,
24 is there a team that goes with you?

25 A. Yes.

1 Q. And does that -- what does that team do?

2 A. The team will go ahead and search the location and look
3 for and try to locate any evidence that is addressed in the
4 search warrant as items to be seized. If there are items to
5 be seized, and if I'm not one that finds the items, then they
6 would make me aware of the item that they found and where
7 they found it.

8 Q. So when you say they make you aware of the item to be
9 found, for example, if they find a piece of evidence, they
10 call out to you; is that correct?

11 A. Correct.

12 Q. And they identify an item that they believe might be
13 relevant, and you log it; is that correct?

14 A. Correct.

15 Q. Now, in executing the search warrant at 312 Manzanita
16 Court, what types of items were you able to find?

17 A. There were paper documents. There were a variety of
18 digital devices, items that would maintain or hold digital
19 information, potentially digital evidence. It'd be
20 computers, you know, laptops, cell phones, a thumb drive,
21 CDs. That's what I'm referring to when I say digital data.

22 Q. I'm sorry. Were those items that you found during the
23 search of -- the execution of this search warrant?

24 A. Yes.

25 Q. Now, turning your or directing your attention, there is

1 approximately four folders to your right. If you can just
2 pull them. And please don't show them to jury until I ask
3 you a few questions.

4 A. Okay.

5 Q. First, directing your attention to Government's Exhibit
6 33, if you can just look inside?

7 A. Okay.

8 Q. Investigator Beaty, do you recognize that?

9 A. I do.

10 Q. What is it?

11 A. A birth certificate. A copy of a birth certificate.

12 Q. And how are you able to recognize it?

13 A. This is an item that I located within the residence.

14 Q. And when you say I located in the residence, does that
15 mean that you personally found it inside the residence?

16 A. Yes.

17 Q. And at the time that you located, were you able to
18 determine whose birth certificate it was for?

19 A. Yes.

20 Q. And who is that for?

21 A. It's for Ralph DeLeon.

22 Q. Do you know the origin of the -- or where the birth
23 certificate comes from?

24 A. The Republic of the Phillipines.

25 Q. Is Government's Exhibit 33 that you identified in the

1 same condition as it is in front of you now as when you first
2 saw it?

3 A. Yes.

4 MR. CHIU: Your Honor, at this time, the government
5 would move 33 into evidence.

6 THE COURT: Any objection?

7 MR. LARSEN: No, Your Honor.

8 MR. THOMAS: No, Your Honor.

9 THE COURT: 33 is admitted. You may publish.

10 (Exhibit 33 admitted.)

11 MR. CHIU: Just for ease, I'm gonna go through all
12 the exhibits, and then I'll publish them.

13 Q. Turning your attention to Exhibit 34, do you also
14 recognize that?

15 A. Yes.

16 Q. What is that?

17 A. These are photocopies of social security cards,
18 permanent resident cards, employment authorization and
19 passports.

20 Q. And are those documents you also found during the
21 execution of the search warrant at Mr. DeLeon's residence?

22 A. Yes.

23 Q. Is that also in the same condition now as when you found
24 it?

25 A. Yes.

1 Q. Directing your attention to Government's Exhibit 35, do
2 you recognize that document?

3 A. Yes.

4 Q. And what is that?

5 A. It's a certificate of title for a vehicle in the State
6 of California.

7 Q. Were you able to determine what vehicle that was?

8 A. Yes.

9 Q. What vehicle was that?

10 A. It's for a 2004 Nissan.

11 Q. Is that document in the same condition as it is now as
12 when you found it?

13 A. Yes.

14 Q. Directing your attention to government's Exhibit 36, do
15 you recognize that document?

16 A. Yes.

17 Q. And what is that?

18 A. It is a letter from Allstate addressed to Ralph DeLeon.

19 Q. Is that also in the same condition now as when you saw
20 it when you executed the search warrant?

21 A. Yes.

22 MR. CHIU: Your Honor, at this time, the government
23 moves Exhibits 34 through 36 into evidence.

24 THE COURT: Any objection?

25 MR. LARSEN: No, Your Honor.

1 MR. THOMAS: No, Your Honor.

2 THE COURT: Thank you. 34 through 36 ordered
3 admitted.

4 (Exhibits 34 through 36 admitted.)

5 BY MR. CHIU:

6 Q. Now, directing your attention back to Exhibit 33 which
7 you were looking at, is this the copy of the birth
8 certificate that you found?

9 MR. CHIU: Your Honor, I apologize.

10 May I publish the exhibits?

11 THE COURT: Yes, you may.

12 MR. CHIU: Thank you, Your Honor.

13 THE WITNESS: If you could slide it to the right,
14 please, right top corner.

15 BY MR. CHIU:

16 Q. Does it appear to be the same document?

17 A. If you could slide it to the right top corner, please.
18 Yes.

19 Q. And is this a birth certificate from the Republic of the
20 Phillipines?

21 A. Yes.

22 Q. And that's for the defendant in this case, Mr. Ralph
23 Kenneth DeLeon; is that correct?

24 A. Correct.

25 Q. Do you remember where you found that?

1 A. Yes.

2 Q. Where did you find that?

3 A. In the master bedroom closet.

4 Q. Directing your attention to Government's Exhibit 34, you
5 recognize this document?

6 A. Yes.

7 Q. And is that same or a photocopy of what you have in your
8 possession which is the document you found?

9 A. Yes.

10 Q. And what is that, by the way?

11 A. A permanent resident card.

12 Q. And who is it for?

13 A. Ralph DeLeon.

14 Q. In that same exhibit, was there also a photograph of a
15 passport?

16 A. Yes.

17 Q. Directing your attention to this document here, was this
18 the photocopy of the passport?

19 A. Yes.

20 Q. Where did you -- and where did you find this?

21 A. In the closet of the master bedroom.

22 Q. And who is the passport for?

23 A. Ralph DeLeon.

24 Q. And if you look at the bottom of the passport, are you
25 able to determine on what date this passport expired?

1 A. Yes.

2 Q. What date was that?

3 A. 13th of February 2011.

4 Q. At the time you executed the search warrant and you
5 found this, was this an expired passport?

6 A. Yes.

7 Q. Directing your attention to Government's Exhibit 35,
8 this is the document that you were referring to earlier as
9 the Certificate of Title?

10 A. Yes.

11 Q. And again, who is this Certificate of Title for?

12 A. Ralph DeLeon.

13 Q. And what particular vehicle is this?

14 A. This is for a 2004 Nissan with a license plate of
15 6NQU028. It also identifies it by vehicle identification
16 number.

17 Q. And who is that vehicle associated with?

18 A. Ralph Kenneth DeLeon or Melchor DeLeon.

19 Q. Do you know who Melchor DeLeon is?

20 A. I believe that's Ralph DeLeon's father.

21 Q. And directing your attention to Government's Exhibit 36,
22 is this the document that you found during the search?

23 A. Can you just widen that a little bit? Thank you. Yes.

24 Q. What does this appear to be?

25 A. A letter addressed to Ralph DeLeon from Allstate.

1 Q. Does it appear to be from an insurance company?

2 A. Yes.

3 Q. Are you familiar with Allstate?

4 A. Yes.

5 Q. That's an insurance company?

6 A. Correct.

7 MR. CHIU: Your Honor, I have no further questions
8 for this witness.

9 THE COURT: Mr. Larsen, you may inquire.

10 MR. LARSEN: Thank you, Your Honor.

11 CROSS-EXAMINATION

12 BY MR. LARSEN:

13 Q. Good afternoon, Mr. Beaty.

14 A. Hello.

15 Q. You mentioned that you searched the home that Mr. DeLeon
16 had lived in?

17 A. Correct.

18 Q. Did you search the entire home?

19 A. Yes.

20 Q. So you went in to every room?

21 A. Yes.

22 Q. About how many rooms were there? Well, start with the
23 bedrooms. How many bedrooms were there?

24 A. Three.

25 Q. Three bedrooms. How many bathrooms?

1 A. Two.

2 Q. Two. And one kitchen, I imagine.

3 A. Correct.

4 Q. Was there a garage?

5 A. Yes.

6 Q. Was it attached or --

7 A. Yes.

8 Q. And you said the house was empty when you searched it;

9 correct?

10 A. Yes.

11 Q. Was it your impression from searching this

12 three-bedroom, two-bathroom home that Mr. DeLeon lived there

13 by himself?

14 A. No.

15 Q. Do you have any knowledge as to who else he may have

16 lived with in the home?

17 A. Yes.

18 Q. Do you have reason to believe that it was his family's

19 home?

20 A. Yes.

21 Q. That he lived there with his parents.

22 A. Yes.

23 Q. Thank you. When you searched the home, you searched

24 what you believed to be his bedroom; is that correct?

25 A. Yes.

1 Q. And you found in the bedroom a Play Station; is that
2 correct?

3 A. I would have to refer to the evidence log to refresh my
4 recollection as to where that was located.

5 Q. Did you find a device that one can play videos on?

6 A. Yes.

7 Q. Did you also find video games?

8 A. I believe so.

9 Q. Did you also find controllers to use on the video game
10 machine to play the video games?

11 A. Yes.

12 Q. Did you also find an MP3 player?

13 A. Yes.

14 Q. Did you also finds sports paraphernalia? And I'll be
15 more specific. Did you find a Raider's cap?

16 A. I may have. I know there was sports paraphernalia in --
17 in the bedroom.

18 Q. There was. Thank you. So did you also find an L.A.
19 Dodgers cap?

20 A. That may have been in there as well.

21 Q. And did you also find a Chicago Bulls' hat?

22 A. That may have been in there as well.

23 Q. And you also found a Miami Dolphins mug; is that
24 correct?

25 A. I do recall that.

1 Q. You do recall that. So it would seem to you that
2 Mr. DeLeon was a sports fan.

3 A. I can't answer that.

4 Q. Fair enough. But he had sports memorabilia and sports
5 paraphernalia around there, didn't he?

6 A. Yes.

7 Q. Thank you, Mr. Beaty. When you looked in Mr. DeLeon's
8 room, did you find any posters on the wall?

9 A. I don't specifically recall posters but . . . some
10 other items that were hanging on the wall, yes.

11 Q. Such as photographs.

12 A. The photographs don't stick out to me, no.

13 Q. You wouldn't recall the content of the -- whatever was
14 on the wall.

15 A. I have recollection of some items that were on the wall,
16 yes, but I don't recall specifically photographs or posters.

17 Q. Did he have a poster of Osama Bin Laden on the wall?

18 A. No.

19 Q. Did he have a poster of Anwar al-Awlaki on the wall?

20 A. No.

21 Q. Did he have a poster of Al-Qa'ida on the wall?

22 A. No.

23 Q. Did he have a poster of the Taliban on the wall?

24 A. No.

25 Q. Thank you, Mr. Beaty. Did you find any guns when you

1 searched Mr. DeLeon's room?

2 A. No.

3 Q. Did you find any knives when you searched his room?

4 A. I don't believe so.

5 Q. You don't believe so. Did you find any ammunition when
6 you searched his room?

7 A. No.

8 Q. Did you find any manuals on how to operate a gun?

9 A. No.

10 Q. Any manuals on how to build a gun?

11 A. No.

12 Q. Did you find any instructional DVDs on how to either
13 operate or build a gun?

14 A. There were CDs and possibly DVDs, but the contents of
15 those I do not know.

16 Q. Fair enough. Did you find any explosives in
17 Mr. DeLeon's room?

18 A. No.

19 Q. Did you find any dynamite?

20 A. No.

21 Q. Did you find any C-4?

22 A. No.

23 Q. Did you find any instructions on how to make any
24 explosive device?

25 A. No.

1 Q. Did you find any -- I'll strike that and move on. It
2 would be redundant. Did you find any terrain maps in
3 Mr. DeLeon room?

4 A. No.

5 Q. So you didn't find a map of Afghanistan.

6 A. No.

7 Q. You didn't find map of Yemen.

8 A. No.

9 Q. You didn't find a map of anywhere.

10 A. No.

11 Q. Thank you, Mr. Beauty. Did you find any information --
12 did you find any, uh, lists of U.S. military bases?

13 A. No.

14 Q. Did you find any maps or directions to U.S. military
15 bases?

16 A. No.

17 Q. Did you find any lists or photographs of U.S. military
18 bases?

19 THE COURT: You need to slow down.

20 MR. LARSON: Pardon me, Your Honor.

21 THE COURT: Thank you.

22 BY MR. LARSON:

23 Q. Did you see any photographs of U.S. military bases?

24 A. No.

25 Q. Okay. And did you find any directions to U.S. military

1 bases?

2 A. No.

3 Q. Did you find, Mr. Beaty, any lists of U.S. federal
4 buildings?

5 A. No.

6 Q. Did you find any photographs of U.S. federal buildings?

7 A. No.

8 Q. Any directions to U.S. federal buildings?

9 A. No.

10 Q. Thank you, Mr. Beaty. Did you find any books in
11 Mr. DeLeon's room on military training?

12 A. No.

13 Q. Any books on, uh, survival training?

14 A. No.

15 Q. Thank you. We spoke -- or you mentioned in your direct
16 testimony about a passport that you found. Did you find any
17 fake passports in the house?

18 A. I can't testify whether a passport is fake or not. I'm
19 not trained in that area.

20 Q. In your -- in your 16 years of investigation -- uh,
21 based on your 16 years of investigation, do you feel unable
22 to determine whether a piece of identification is authentic
23 or fake?

24 A. Not necessarily. I just don't have experience with the,
25 uh, passports.

1 Q. Did you have experience with drivers licenses?

2 A. I do.

3 Q. Did you find a driver's license in the house -- in the
4 room?

5 A. In? In where?

6 Q. In Mr. DeLeon's room.

7 A. I've already said yes.

8 Q. Do you feel that it was a fake passport -- excuse me, a
9 fake driver's license?

10 A. I don't recall that, no.

11 Q. Thank you, Mr. Beaty. Did you find any clothing in his
12 room?

13 A. Yes.

14 Q. Did you find any cold weather gloves in the room?

15 A. I don't believe so.

16 Q. Did you find any scarves in the room?

17 A. No.

18 Q. Any jackets for warm weather like a parka, something
19 like that?

20 A. No, I don't think so.

21 Q. Any snow boots?

22 A. No.

23 Q. Did you find any money in the room?

24 A. Yes.

25 Q. Was it about \$60; is that correct?

1 A. Yes.

2 Q. And you found no other currency of any kind in the room.

3 A. No.

4 MR. LARSEN: Thank you, Mr. Beaty.

5 No further questions, Your Honor.

6 THE COURT: Thank you.

7 Mr. Thomas.

8 MR. THOMAS: No further questions.

9 THE COURT: All right, thank you.

10 Redirect?

11 MR. CHIU: Yes, Your Honor, very briefly.

12 REDIRECT EXAMINATION

13 BY MR. CHIU:

14 Q. Investigator Beaty, when you went into Defendant
15 DeLeon's room, did it appear that he had shared the room with
16 another person?

17 A. I don't recall specifically. It's hard to say. There
18 was just -- there was a lot of stuff in the room.

19 Q. Did you find the identification of somebody by the name
20 of Mico or Michael DeLeon?

21 A. I don't specifically recall whether I did or not.

22 Q. Directing your attention back to Government's
23 Exhibit 34, now is this one of the documents you found inside
24 the house?

25 A. Yes.

1 Q. And does that refresh your recollection as to whether
2 you found any identifications of anybody named Mico or
3 Michael DeLeon?

4 A. Yes.

5 Q. And were you able to find the permanent resident card
6 for Michael DeLeon?

7 A. Yes.

8 Q. And do you know who that is?

9 A. No.

10 Q. Did you find items referring to Michael DeLeon in the
11 house?

12 A. Yes.

13 MR. CHIU: No further questions, Your Honor.

14 THE COURT: All right, thank you. You may step
15 down.

16 All right. I think now is a good time for our
17 mid-afternoon break. So please remember don't discuss the
18 case, communicate in any way with anyone in any fashion about
19 the case. Don't form or express any opinions about the case
20 and don't do any research in any way. Thank you. You're
21 excused.

22 (Jury not present.)

23 THE COURT: We're on the record outside the
24 presence of the jury. I think Mr. Chiu, when you were
25 examining this last witness on direct?

1 MR. CHIU: Yes, Your Honor.

2 THE COURT: You displayed several documents, among
3 them the legal permanent resident card, the birth certificate
4 and a few others that need to be redacted before the end of
5 the trial because I don't know how much of the information on
6 them you need, but since all the exhibits go back to the jury
7 and any further exhibits like that before they're shown to
8 the jury should be redacted.

9 So that, for example, on the green card, for
10 example, I'm sure there's I think it's called a registration
11 number and should not be shown because that's the kind of
12 information that is covered under the local rules about
13 redaction of person information.

14 MR. CHIU: Yes, Your Honor. And just to be clear,
15 those items were actually found as physical exhibits so
16 that's exactly how it was found. The reason I put it on the
17 Elmo and provided a copy to the Court was because it would
18 make it easier for both the Court and the jury to see, but
19 certainly if the Court wants --

20 THE COURT: You can put covering tape over -- not
21 over everything because I realize you need to have enough so
22 that you can discuss them but at least over the numbers. And
23 then the other thing that concerns me is I don't know if
24 Mr. DeLeon's -- well, Mr. DeLeon, this hasn't come up with
25 Mr. Kabir, but does his family still live in the same

1 location?

2 MR. CHIU: Your Honor, I don't know that.

3 MR. THOMAS: Yes.

4 THE COURT: They do? At least as to the documents
5 and if there is further testimony that comes in about the
6 house, we shouldn't probably be saying the house number on
7 the record. The street would be sufficient so that there is
8 no issue as to the location where his family is still living.

9 All right. So take care of that in the future.

10 MR. THOMAS: Along that line, I noticed
11 Exhibit 16-A has the front and back of some credit cards so
12 we should probably wipe out the credit card number, too.

13 THE COURT: Probably. I'm sure they're no longer
14 there, but we should probably do that.

15 All right. Thank you very much.

16 (Recess taken.)

17 THE COURT: Let the record reflect the presence of
18 all members of the jury, all counsel and the defendants are
19 also present.

20 Your next witness.

21 MS. DeWITT: The United States calls Mark Espiritu.

22 THE CLERK: Please raise your right hand.

23 (Witness sworn.)

24 THE CLERK: Thank you. You made be seated. Please
25 state your full name and spell it for the record.

1 THE WITNESS: Mark Espiritu. M-a-r-k
2 E-s-p-i-r-i-t-u.

3 THE COURT: Thank you. You may inquire.

4 DIRECT EXAMINATION

5 BY MS. DeWITT:

6 Q. By whom are you employed?

7 A. I'm employed by the Federal Bureau of Investigation.

8 Q. And what is your current title at the Federal Bureau of
9 Investigation?

10 A. I am a special agent.

11 Q. Are you assigned to a specific squad, Special Agent
12 Espiritu?

13 A. I am. I am assigned to Squad Five of the Orange County
14 Resident Agency otherwise known as OCRA.

15 Q. And what is your current area of responsibility in that
16 squad?

17 A. OCRA 5 is one of the squads assigned to the Joint
18 Terrorism Task Force or otherwise known as the JTTF. More
19 specifically OCRA 5 is the Domestic Terrorism Squad or DT
20 Squad, so we investigate a wide range of domestic terrorism
21 violations ranging from militia to anti-government to white
22 supremacists to left wing animal rights investigations.

23 Q. You referred to it as the OCRA Squad?

24 A. Yes, O-C-R-A Orange County Resident Agency.

25 Q. How long have you been a special agent with the FBI?

1 A. Six-and-a-half years.

2 Q. And Special Agent Espiritu, directing your attention to
3 the date of November 16, 2012, were you involved in the
4 execution of a search warrant on that date?

5 A. I was.

6 MS. DeWITT: And Your Honor, just one moment.

7 May I inquire, do you want me to not list the
8 actual address for the location?

9 THE COURT: You can list the street, but not the
10 house number.

11 BY MS. DeWITT:

12 Q. And Special Agent Espiritu, what was the location where
13 that search warrant was being executed? If you can just list
14 the street without the number and the city.

15 A. Okay. The street was Primrose P-r-i-m-r-o-s-e Street.

16 Q. And in what city was that located?

17 A. It was in Upland.

18 Q. And did you have specific responsibilities in connection
19 with the execution of that search warrant that day?

20 A. Yes. I was assigned as the search team leader at that
21 location.

22 Q. Prior to actually executing the search, do you have some
23 kind of a meeting, an operational plan?

24 A. Yes, we did.

25 Q. And can you explain just sort of generally what happened

1 at the operational brief before the search warrant?

2 A. Sure. At the -- at a briefing prior to the execution of

3 the search warrant, all the personnel involved meet to go

4 over the location and the specific assignments that were

5 delegated for that execution to include everything from who

6 was gonna be involved in the entry, which personnel would be

7 assigned to work the perimeter or to maintain perimeter

8 security. And then upon entry and the clearing of the space,

9 who would be assigned to the search which rooms, who would be

10 assigned to take photographs of various rooms and any pieces

11 of items that we may seize. Also who was gonna do the

12 sketch. Those are the type of matters that are discussed at

13 the operations briefing.

14 Q. You mentioned perimeter. What do you mean by perimeter?

15 A. At the location the perimeter would be just, maybe just

16 outside the front door entrance. Like after we make entry

17 insuring, you know, the neighbors are kept at bay or no

18 lookie-loos try to get too close to the entry team. So

19 anywhere from directly in front of the residence and a circle

20 around to include like the sidewalk and the street that's

21 where the perimeter team would be staged.

22 Q. You mentioned the word entry team. Can you explain what

23 that is?

24 A. Yes. The entry team is the team that makes the entry.

25 Whether we make a knock and announce so the person, the point

1 man, the first person in the stack announces this is the FBI,
2 open the door. And if there is no response, they make entry
3 into the residence.

4 Q. You also mentioned clearing the location. What did you
5 mean by that?

6 A. Clearing the location involves law enforcement personnel
7 entering into the residence and then insuring that there are
8 no potential hazards or threats particularly any people. In
9 this case there were none so it was quickly cleared to be
10 safe for entry and to start the search.

11 Q. You mentioned a sketch. Is it typical for a sketch to
12 made of the location that you're searching?

13 A. Yes.

14 Q. And in this case was a sketch made?

15 A. Yes, a sketch was made.

16 Q. And you mentioned also photographs. In this case were
17 photographs taken of a location?

18 A. Yes.

19 Q. Is it typical for the FBI when they're searching a
20 location to take photographs and make a log of those
21 photographs?

22 A. Yes.

23 Q. And was that done in this case?

24 A. Yes.

25 Q. Now, what was your responsibilities that day?

1 A. On that day the search team leader is responsible for
2 conducting the brief, which I mentioned earlier, and then
3 upon the arrival at the scene to be in charge of the entry
4 and to be in charge of making sure it's all cleared. And
5 then collection of any items that get seized. So it was
6 kinda of really is managing a lot of moving parts on that day
7 is what the search team leader's job is. And then upon
8 completion of the search, taking all the seized items and
9 bringing it back, properly back to an evidence storage
10 facility. In this case it was the Riverside FBI office.

11 Q. And were you the team leader that day?

12 A. I was. Yes, I was.

13 Q. And were you also the person who was responsible as the
14 team leader for collecting the items of evidence that were
15 seized that day?

16 A. Yes, I was.

17 Q. And were you also responsible as the team leader
18 essentially for overseeing the work of all the other agents
19 executing the search warrant that day?

20 A. Yes, I was.

21 Q. Approximately what time did the execution of that search
22 warrant begin on that day?

23 A. Approximately 9:30 in the morning.

24 Q. And did you in fact seize items of evidence at that
25 location?

1 A. Yes.

2 Q. And you mentioned that before you execute a search
3 warrant, you have a team briefing. Is one of the things that
4 you do before you execute a search warrant, you actually go
5 over the terms of the search warrant?

6 A. Yes, we did.

7 Q. So you would know which items you were legally allowed
8 to search for.

9 A. Yes.

10 MS. DeWITT: I'm gonna now ask to what has been
11 previously identified as -- marked for identification as
12 Government's Exhibit 20 placed before the witness.

13 Q. And Special Agent Espiritu, is this one of the items of
14 evidence that you seized that day at the Primrose location?

15 A. Yes, it is.

16 Q. Whose actual location was the Primrose location?

17 A. I believe the residence to be Mr. Santana's residence.

18 Q. And his family.

19 A. Yes, and his family.

20 Q. Government's Exhibit 20, what is that?

21 A. It is a spiral notebook.

22 Q. And this is one of the items you seized that day?

23 A. Yes.

24 Q. Where was this particular item of evidence found?

25 A. It was found in Room E. Room E, which we had on our

1 sketch, I believed -- what we believed to be Mr. Santana's
2 bedroom on the second floor.

3 Q. Why did you believe this was Mr. Santana's bedroom?

4 A. There were two bedrooms in the residence and one of the
5 bedrooms had predominantly female clothing which I believed
6 to be the mother's bedroom. Room E I believed it to be
7 Mr. Santana's bedroom because it had men's clothing was found
8 in the residence -- I'm sorry, in the bedroom. Additionally,
9 movies, DVDs, an Xbox, Play Station, things of that nature
10 that leads me to believe that it's more -- of the two
11 bedrooms, it's likely Mr. Santana's bedroom.

12 MS. DeWITT: At this time, Your Honor, I would ask
13 to move into evidence Government's Exhibit 20.

14 THE COURT: Any objection to Exhibit 20?

15 MR. LARSEN: No, Your Honor.

16 MR. THOMAS: No, Your Honor.

17 THE COURT: Thank you. It's ordered admitted. You
18 may publish.

19 (Exhibit 20 was admitted.)

20 BY MS. DeWITT:

21 Q. First of all, Special Agent Espiritu, can you just show
22 the jury Government Exhibit 20?

23 A. Okay. Take it out?

24 Q. Yes.

25 A. Okay.

1 MS. DeWITT: For ease of the jury seeing it,
2 Your Honor, I'm gonna publish a photocopy of this item.

3 Q. Agent Espiritu, is that the front of this particular
4 item?

5 A. Yes, it is.

6 Q. Could you turn to the second page of that exhibit which
7 is 20.23. Okay. Directing your attention to the top of this
8 particular page is there a name written there?

9 A. Yes. It's Miguel is written on the top line.

10 Q. In the center of this document is there another name
11 written?

12 A. Yes, Santana.

13 Q. And if you could turn your attention to page 25 of this
14 exhibit, what does this appear to represent?

15 A. It appears to be a list of names with telephone numbers.

16 Q. And directing your attention to the top of the document,
17 can you read what that says?

18 A. It says Suhail-Germany, and then a telephone number
19 0157-3606-9753.

20 Q. And directing your attention to the center of that
21 document, you see the name Rafiq?

22 A. Yes, 626-589-2068.

23 Q. And finally on the lower right-hand corner in blue?

24 A. It says Suhail 0789-278259.

25 Q. And the name below there?

1 A. Uh, the name below it looks like it says Monik.

2 Q. Monier?

3 A. Monier. M-o-n-i-e-r, yes, it says Monier with a
4 telephone number of 310-251-6805.

5 Q. Special Agent Espiritu, if I could direct your attention
6 to, it might be easier for you to follow it on the screen,
7 page 34 of this document.

8 Special Agent Espiritu, if I could direct your
9 attention in particular to the line that begins we will bomb,
10 if you could for the record read that and the next two
11 paragraphs into the record?

12 A. Okay. It says we will bomb, we will kill, we won't
13 rest. We will rule by the shariah of Allah and his law. Our
14 Shaykh Usama has given his promise. If it takes a long time,
15 by the permission of Allah, we'll fulfill it. Our Shaykh
16 Usama has given us -- excuse me -- has given his promise.
17 Christians will never live at ease when the people of Islam
18 strive for Zion.

19 Q. And then the next two sentences below that.

20 A. It says our Shaykh Usama has given his promise.

21 Q. The next line.

22 A. When the people of Islam strive for Zion.

23 Q. And Special Agent Espiritu, this appears to be part of a
24 poem or some verse being written in this notebook?

25 A. That's what it appears, yes.

1 Q. If I could direct your attention to page 39 of
2 Government's Exhibit 20, what appears to be depicted on this
3 page in the red spiral notebook?

4 A. It appears to be a list of websites.

5 Q. And directing your attention to the one at the top, for
6 the record, can you read that, what that says there?

7 A. Yes. Hoor-al-ayn.com.

8 Q. Is there a note next to it?

9 A. Yes, there's a note next to it. It says really good
10 lectures.

11 Q. And if I could direct your attention to the third one
12 and the fourth one down. What does that say?

13 A. It says theunjustmedia.com and kavkazcenter.net.

14 Q. And a little further down the page, what does that say?

15 A. Appears to be say fisabilla.org.

16 Q. And Special Agent Espiritu, if you'll look at the two or
17 three pages before this particular page, what do those pages
18 appear to represent?

19 A. The pages before also appear to represent websites as
20 well. It's also a list of websites.

21 Q. So there's approximately four pages that list websites?

22 A. Yes.

23 Q. And then going back to Government's Exhibit 20 at page
24 36 on the side of that document long ways, can you read what
25 that says?

1 A. Yes. It says hoor-al-ayn.com/lectures/anwar-al-awlaki.

2 Q. And if I could now direct your attention to page 36 of
3 this document and particularly to the upper right-hand
4 corner, what does that say?

5 A. It's an email address and it says, I believe it says
6 101mesr@gmail.com and underneath it is mesr5505. Underneath
7 that is mikael101.tumblr.com. Then there's a slash and then
8 underneath it's mers_rox_all@yahoo.com. Underneath that it
9 says mes101, and then there's also the bottom right it says
10 flickr.com and with an arrow pointing to the email address
11 above it.

12 Q. Directing your attention to three-quarters of the way
13 down, what does that say?

14 A. It says jihadwatch.org.

15 Q. And finally if you could direct your attention towards
16 the bottom?

17 A. It says myhomekavkaz.blogspot.com.

18 Q. And finally just above where it says
19 destination-jannah.com, what does that say?

20 A. It says tawhed.net.

21 Q. If I could ask you to look at page 40 or the back cover
22 of this document. In the center of this back page is there
23 an email address that's listed?

24 A. Yes.

25 Q. And what is that?

1 A. It says blackflagbanner@gmail.com.

2 Q. And right below that, there's what appears to be a
3 handle for a web page?

4 A. Yes. It says mesrssos.

5 Q. And directing your attention to the lower right-hand
6 corner, you see some email addresses that are vertical. And
7 Special Agent Espiritu, while the computer is cycling, what
8 I'm particularly interested in is the one at the very top of
9 the page. It's a little bit easier to see on the original.
10 If you could read what that email address is.

11 A. Sure. It is app1821@yahoo.com.

12 MS. DeWITT: At this time I'd like to ask to have
13 previously marked for identification as Government's
14 Exhibit 21 placed before the witness and while that's being
15 done, I'd move to admit Government's Exhibit 20 or did I
16 already do that?

17 THE COURT: It's already been admitted.

18 BY MS. DeWITT:

19 Q. Special Agent Espiritu, do you have Government's
20 Exhibit 21 in front of you?

21 A. I do.

22 Q. What is that?

23 A. It's a Toshiba laptop.

24 Q. Is this one of the items that you seized at Primrose on
25 November 16, 2012?

1 A. Yes, it is.

2 Q. How do you know that's a particular item you seized that
3 day?

4 A. I was as the search team leader, I physically observed
5 every item that we found and I specifically remember seizing
6 this in Room B. Room B was sketched on the sketch as Room B
7 for lack of a better term, we believe it to be the dining
8 room because it had a dining room table and it was right next
9 to the kitchen and the living room. It was seized from that
10 room. It was collected from there.

11 I tagged it and put it in the bag. This is my
12 handwriting on the label which identifies the case number,
13 the date, the address that we collected it from and this is
14 my handwriting. It's also my writing. I signed the bag that
15 it was collected in and brought it to the evidence facility.

16 Q. Different agents have different practices and your
17 practice is to actually write the label and when appropriate
18 put it on the exhibit?

19 A. Yes, I -- yes.

20 Q. And can you read for the record what the serial number
21 is for that laptop?

22 A. Sure. The serial number is 19094189Q.

23 MS. DeWITT: And at this time the government would
24 move to admit Government's Exhibit 21.

25 THE COURT: Any objection?

1 MR. LARSEN: No, Your Honor.

2 MR. THOMAS: No, Your Honor.

3 THE COURT: 21 is ordered admitted. You may
4 publish.

5 (Exhibit 21 was admitted.)

6 BY MS. DeWITT:

7 Q. Will you show that to the jury please?

8 At this time I'd ask to have what's been previously
9 marked for identification as Government's Exhibit 22 placed
10 before the witness. Do you have Government's Exhibit 22 in
11 front of you?

12 A. I do.

13 Q. What is that?

14 A. It's a two gigabyte Scan disk micro SD card and adapter.

15 Q. Is this another item of evidence that you seized that
16 day?

17 A. Yes.

18 Q. Where was this item of evidence located?

19 A. This was also found in Room E, which I explained earlier
20 to be likely Mr. Santana's bedroom.

21 Q. And it's sort of a small item of evidence. How is it
22 you noted that particular disk was the one you found?

23 A. Once again it's my handwriting that's on the label and I
24 labeled it as being found in Room E. Also we took
25 photographs of everything that we found in place and I did

1 review those photographs recently. And it was -- this was
2 the same item that we had seized on November 16th. So that's
3 how I know we seized this particular item on November 16,
4 2012.

5 MS. DeWITT: At this time I would move to introduce
6 Government's Exhibit 22 into evidence.

7 THE COURT: Any objection?

8 MR. LARSEN: No, Your Honor.

9 MR. THOMAS: No, Your Honor.

10 THE COURT: All right. Ordered admitted. You may
11 publish.

12 (Exhibit 22 was admitted.)

13 BY MS. DeWITT:

14 Q. At approximately what time did you complete the search
15 of the Primrose location that day?

16 A. It was approximately 1:30 p.m. when we completed our
17 search.

18 Q. And just a couple other closing questions for you
19 Special Agent Espiritu. Other than the execution of this
20 search warrant on November 16th, 2012, did you have any other
21 involvement in the underlying investigation in this case?

22 A. No, I did not.

23 MS. DeWITT: I have no further questions.

24 THE COURT: Thank you.

25 Mr. Larsen, cross-examination. You may inquire.

1 MR. LARSEN: Thank you, Your Honor.

2 CROSS-EXAMINATION

3 BY MR. LARSEN:

4 Q. Good afternoon, Agent Espiritu.

5 A. Good afternoon.

6 Q. You spoke earlier in your testimony about a notebook
7 that you found in his home; is that correct?

8 A. Yes.

9 Q. And the notebook had various phone numbers and various
10 writings in it; is that correct?

11 A. Yes.

12 Q. Do you have any reason to believe this notebook was ever
13 shown to Mr. Kabir?

14 A. Uh, I don't know. I don't know if it ever was.

15 Q. You have no basis to believe so; correct?

16 A. I would not know. I'm not -- I don't know who it's been
17 shown to.

18 Q. Okay. Thank you. Now, talking about things that you
19 did find in the house, you found a Play Station; correct?

20 A. That was one of the items, yes, that we found.

21 Q. One of those video game machines; right?

22 A. Yes.

23 Q. And you also found an Xbox; correct?

24 A. Yes.

25 Q. And that's another one of those video game machines?

1 A. Yes.

2 Q. Did you also find video games in the house?

3 A. To the best of my memory, yes, there were video games in
4 the house.

5 Q. Did you find controllers to play the video games?

6 A. I do not specifically remember seeing controllers.

7 Q. Do you remember a game called Guitar Hero that was found
8 in the house?

9 A. I do not remember that. I don't remember seeing Guitar
10 Hero. I do not recall.

11 Q. Do you recall finding a device to play music like an
12 MP-3 player?

13 A. I do not recall.

14 Q. You do not recall those items. I'd like to ask you if
15 you found any guns in the house?

16 A. No.

17 Q. Did you find any ammunition in the house?

18 A. No.

19 Q. Did you find any explosives in the house?

20 A. No.

21 Q. C-4?

22 A. No.

23 Q. Dynamite?

24 A. No.

25 Q. Any instructions on how to make a bomb?

1 A. We did see some computer and some storage disks. I did
2 not review those items so . . .

3 Q. You wouldn't know what they contained.

4 A. I don't know what was on there, but to answer your
5 question no, I did not see any those items.

6 Q. Thank you, Agent. Did you find any terrain maps in the
7 house?

8 A. Oh, like physical maps?

9 Q. Yes. Did you find a terrain map of Afghanistan?

10 A. No.

11 Q. Did you find a terrain map of any place?

12 A. Not that I recall.

13 Q. Thank you, Agent. Did you find any maps of -- did you
14 find any directions to U.S. military bases?

15 A. Not that I recall, no.

16 Q. Did you find any photographs of U.S. military bases?

17 A. Not that I recall, no.

18 Q. Likewise did you find any lists of U.S. military
19 personnel?

20 A. Not that I recall, no.

21 Q. Did you find any books on military training?

22 A. I do recall one book. I remember there were some --
23 there was a book Cobra like a U.S. military book. I do
24 recall that being there. Military book, it's not specific.
25 There's probably military training mentioned in the book, but

1 as far as manual is that what you're asking?

2 Q. To refresh your memory if I said Cobra II is a book
3 written by a chief military correspondent of the New York
4 Times Michael H. Gordon, who is a prominent retired marine
5 general -- excuse me. Michael Gordon and by a prominent
6 retired marine general Bernard Traynor?

7 A. Yes.

8 Q. So that was the book?

9 A. Yes.

10 Q. Thank you, Agent. I think you mentioned or rather you
11 did find a passport in the house; is that correct?

12 A. Yes.

13 Q. Based on your training and experience, did you believe
14 it was a fake passport?

15 A. I -- I can't answer that. We seized it, but I did not
16 give it a full review at the time and the place. We just
17 knew it was an item that could be seized based on the fact
18 that it was identifiable to one of the subjects so we seized
19 it, but absent a full sit down review, I couldn't determine
20 at the time whether it was real or fake.

21 Q. So based on your training without doing the whole
22 review, you had no reason to believe it was fake; correct?

23 A. I'm sorry. Can you repeat the question?

24 Q. You said you looked at it when you seized it. When you
25 did so and looked at it, you had no reason to believe it was

1 fake; correct?

2 A. Uh, it appeared to be -- it appeared to be a valid
3 passport at the time.

4 Q. And did anything come into your mind to make you think
5 it wasn't a valid passport later?

6 A. I did not review it again. As best I remember, there
7 may have been some markings on the passport, but that was the
8 only time I saw it is when we seized it so I did not see
9 again after that. I did not review it again.

10 Q. Thank you, agent. Did you find any money in the house?

11 A. Not that I recall.

12 MR. LARSEN: All right. Thank you, Agent.

13 Thank you, Your Honor.

14 THE COURT: Thank you. Mr. Thomas.

15 MR. THOMAS: No questions, Your Honor.

16 THE COURT: Any redirect?

17 REDIRECT EXAMINATION

18 BY MS. DeWITT:

19 Q. Special Agent Espiritu, you -- one of the items that you
20 have previously testified about was a Toshiba laptop;
21 correct?

22 A. Yes.

23 Q. And there were other digital items that were seized that
24 day at the Primrose residence; is that correct?

25 A. Yes.

1 Q. And you yourself were not involved in doing the analysis
2 of the digital information that was on any of those devices;
3 is that correct?

4 A. That's correct.

5 MR. LARSEN: I don't believe I inquired into this
6 in my cross-examination.

7 THE COURT: Overruled. You may answer.

8 THE WITNESS: I'm sorry. Can you repeat the
9 question?

10 BY MS. DeWITT:

11 Q. The question is you seized other items, a number of
12 digital items, computers and other types of digital media; is
13 that correct?

14 A. Yes, it is.

15 Q. You yourself were not involved in reviewing the digital
16 information that was on the computer or the laptop or any of
17 the digital items that were seized that day; is that correct?

18 A. That is correct.

19 Q. So you have no idea whether -- what was on those items?

20 A. Correct.

21 Q. Including whether or not there might have been
22 instructions on how to fire an AKA 47?

23 A. That is correct.

24 MS. DeWITT: Nothing further.

25 THE COURT: All right. You may step down and the

1 government may call its next witness.

2 MS. DeWITT: At this time the government would call
3 Jeff Stiff.

4 THE CLERK: Please raise your right hand.

5 (Witness sworn.)

6 THE CLERK: You may be seated. Please state your
7 full name and spell it for the record.

8 THE WITNESS: My full name is Jeffrey Stiff.

9 J-e-f-f-r-e-y S-t-i-f-f.

10 THE COURT: Thank you. You may inquire.

11 DIRECT EXAMINATION

12 BY MS. DeWITT:

13 Q. Mr. Stiff, by whom are you employed?

14 A. I'm a special agent with the FBI.

15 Q. And how long have you been a special agent with the FBI?

16 A. I have been an agent for over eight years now.

17 Q. Are you currently assigned to a particular squad?

18 A. I am. I'm assigned to a violent crimes squad here in
19 Riverside.

20 Q. And in connection with your current assignment with that
21 squad, what is your area of responsibility?

22 A. My responsibility is right now is mainly crimes against
23 children where I investigate child pornography, the
24 distribution, receipt, production of as well as child
25 prostitution and any kidnapping of children within

1 San Bernardino and Riverside Counties.

2 Q. I think that the court reporter is going to ask me to
3 tell you to slow down just a little bit.

4 A. Just a little bit.

5 Q. Directing your attention to the date of November 16,
6 2012?

7 A. Yes.

8 Q. Were you involved in the execution of a search warrant
9 on that day?

10 A. Yes.

11 Q. And without actually giving the specific street number,
12 can you -- where was that? You can name the street, but not
13 the actual number. Where was the location of the execution
14 of the search warrant that day?

15 A. It was Rancho Jurupa Place in San Bernardino,
16 California.

17 Q. Slow down and if you could just pull the mic a little
18 bit closer to you. Okay. Thank you.

19 The residence that day at which you were executing
20 a search warrant, whose residence was it?

21 A. It was the Kabir residence.

22 Q. And by the Kabir residence, you mean the Kabir family?

23 A. The Kabir family, yes.

24 Q. What were your responsibilities that day in connection
25 with the execution of the search warrant?

1 A. I was the search team leader on that day.

2 Q. And as the search team leader, can you explain to the
3 jury what your responsibilities included?

4 A. Yes. My responsibilities as a search team leader were
5 one for the tactical entry into the residence and to insure
6 that the residence was safe and secure for the search team to
7 go in and proceed to search. I was also responsible for
8 verifying any evidence that was identified from the search
9 team. Once I verified the pieces of evidence, I would
10 identify where that piece of evidence was found, insure that
11 the evidence was properly photographed and seized as well as
12 documented so a receipt was left for the family.

13 Q. And is that additional responsibility sometimes referred
14 to as the finder or the collector?

15 A. Yes. We refer to it as the finder or the seizing agent.

16 Q. You mentioned photographs. Were photographs taken that
17 day?

18 A. Photographs were taken, yes.

19 Q. And prior to testifying here today, did you have an
20 opportunity to look at those photographs?

21 A. Yes.

22 Q. And in fact were you familiar with those photographs as
23 a result of your responsibilities as the team leader at the
24 time they were taken?

25 A. Yes, I was.

1 MS. DeWITT: At this time I would ask to have
2 what's been previously marked for identification as
3 Government's Exhibit 48 placed before the witness.

4 Q. Do you have Government's Exhibit 48 in front of you?

5 A. I have it in front of me.

6 Q. And what is that?

7 A. What is Exhibit 48?

8 Q. Yes.

9 A. A black binder with several pictures inside.

10 Q. What are these pictures?

11 A. These are pictures we took during the search.

12 Q. Do those photographs accurately depict the residence on
13 the day of the search warrant and the items that were found
14 during the course of that search warrant?

15 A. Yes, it does.

16 MS. DeWITT: At this time the government would move
17 to admit Government's Exhibit 48.

18 THE COURT: Any objection to 48?

19 MR. LARSEN: No, Your Honor.

20 MR. THOMAS: No, Your Honor.

21 THE COURT: All right. 48 is ordered admitted.

22 You may publish.

23 (Exhibit 48 was admitted.)

24 MS. DeWITT: At this time I would ask to have
25 what's been previously marked for identification as

1 Government's Exhibit 28 to be placed in front of the witness.

2 THE COURT: Did you say Exhibit 28?

3 MS. DeWITT: 28, yes.

4 THE COURT: I thought it was 48.

5 MS. DeWITT: Your Honor, 48 was the last exhibit.

6 Now, we're on to 28.

7 THE COURT: Okay. We're lucky there's only a
8 couple of exhibits in this case.

9 BY MS. DeWITT:

10 Q. Do you have Government's 28 in front of you?

11 A. Yes.

12 Q. What is that?

13 A. A green military bag.

14 Q. Is that one of the items of evidence that you seized at
15 the Kabir residence on November 16th?

16 A. Yes.

17 Q. Where was that particular item found?

18 A. In the garage.

19 MS. DeWITT: At this time I would ask to admit
20 Government's Exhibit 28 into evidence.

21 THE COURT: Any objection?

22 MR. LARSEN: No, Your Honor.

23 MR. THOMAS: No, Your Honor.

24 THE COURT: Ordered admitted.

25 (Exhibit 28 was admitted.)

1 MS. DeWITT: And before we go to the actual items
2 of evidence, can I ask my colleague to please put up
3 Government's Exhibit 48 at page 4.

4 Q. What is that a photograph of?

5 A. That's a photograph of the bag that's next to me as it
6 was identified in the garage during the day of the search.

7 Q. Directing your attention to back to Government's
8 Exhibit 28, first of all, is there a name on that particular
9 bag?

10 A. Yes, there is.

11 Q. And it's a little bit hard for me to see it, but can you
12 just show it to the jury exactly what you're referring to?

13 And for the record it's etched in white?

14 A. Yes.

15 Q. And for the record, what does that say?

16 A. On the top it says Kabir K-a-b-i-r. Underneath is the
17 name Sohiel S-o-h-i-e-l.

18 Q. Special Agent Stiff, I noticed as you were turning the
19 bag around, that there's a pocket on the outside.

20 A. Yes.

21 Q. Is there anything in the pocket?

22 A. Yes.

23 Q. And what is that piece of paper that's in the outer
24 pocket of Government's Exhibit 28, the military bag?

25 A. This piece of paper is from Department of the Air Force

1 Headquarters 37th Training Wing Lackland Air Force Base
2 Texas. They're special orders and they have the same name
3 Kabir Sohie at the bottom of the page with a social security
4 number.

5 Q. Please don't read that.

6 A. They appear -- this piece of paper appears to depict
7 orders that the individual who's name appears on this piece
8 of paper was a graduate of a course and was in transit to
9 another training battalion or another training area within
10 Lackland Air Force Base.

11 Q. And right above where it says Sohie Kabir is there in
12 the center of that something that indicates RPT NLT?

13 A. Yes.

14 Q. And is it correct that that's a military term for report
15 no later than?

16 A. That is correct.

17 Q. And what does it say is the report no later than date?

18 A. September 4th, 2000.

19 Q. And can I ask you to take the items one-by-one out of
20 the bag? What is the first item?

21 A. The first item is a military jacket or military blouse
22 camouflaged. Has the name tape with the name Kabir K-a-b-i-r
23 over the right breast. Tape over the left breast of U.S. Air
24 Force.

25 Q. Does it also have some patches?

1 A. As well as patches, yes.

2 Q. What do the patches say?

3 A. The patch over the right breast says Air Combat Command.

4 The patch on the left breast 355 Sups We Deliver and there is
5 a patch for the rank on the side of the arm.

6 Q. On the arm on the?

7 A. This is the left arm as well as the right.

8 Q. And do you know what rank that is?

9 A. I don't.

10 Q. And Special Agent Stiff, is there another item in the
11 bag?

12 A. This is another military jacket similar to the first.

13 Name of Kabir K-a-b-i-r over the right breast. Along with a
14 patch also on the right breast that reads Air Combat Command.
15 Over the left breast U.S. Air Force as well as the patch that
16 reads 355 Sups We Deliver and on both the left and the right
17 arm is the rank insignia.

18 Q. And is there another item in the green military bag?

19 A. Another military jacket. Again, similar to the first
20 two, name tape with the name Kabir over the right breast.
21 Along with a patch that reads Air Combat Command on the right
22 breast and a tape over the left breast reads U.S. Air Force
23 as well as the patch that reads 355 Sups We Deliver. And
24 there are rank insignia on both the right and left arms.

25 Q. Is there another item in the bag?

1 A. Pair of camouflage pants.

2 Q. Okay. And is there another item in the bag?

3 A. Another pair of camouflage pants.

4 Q. And is there another item in the bag?

5 A. Yes, there is. A third pair of camouflage pants.

6 Q. Is there another item in the bag?

7 A. This is a pair of what I believe to be MOPP gear which
8 stands for Military Oriented Protective Posture. These pants
9 are used for protection in a chemical, biological or
10 radiological environment.

11 Q. Are those also sometimes referred to as desert camo?

12 A. Yes, that's correct.

13 Q. Is there anything else in the bag?

14 A. Appears to be a white washcloth.

15 MS. DeWITT: Ask my colleague to put up on the
16 screen Government's Exhibit 48-07.

17 Q. What does this picture depict?

18 A. These were pictures of the items within the military bag
19 that were taken on the day of the search.

20 Q. And if you could please put up 48-08. And what is that?

21 A. That's a close-up of one of the items in the bag, the
22 military jacket.

23 MS. DeWITT: At this time I'd ask what's previously
24 been marked as Government's Exhibit 29 placed in front of the
25 witness.

1 Q. Special Agent Stiff, do you have Government's Exhibit 29
2 in front of you?

3 A. I do.

4 Q. And what is that?

5 A. This is another military jacket. Same as the first
6 three. The name tape Kabir K-a-b-i-r.

7 Q. And does it have the same patches as the previous three
8 jackets?

9 A. Yes, it does.

10 MS. DeWITT: And at this time, Your Honor, I would
11 ask to admit Government's Exhibit 29?

12 THE COURT: All right. Any objection to 29?

13 MR. LARSEN: No, Your Honor.

14 MR. THOMAS: No, Your Honor.

15 THE COURT: Ordered admitted. You may publish.

16 (Exhibit 29 was admitted.)

17 MS. DeWITT: Special Agent, if you could just hold
18 it up and show it to the jury.

19 THE WITNESS: Yes.

20 MS. DeWITT: If I could ask my colleague to put up
21 Government's Exhibit 48 at page 12.

22 Q. What is depicted in that photograph?

23 A. That is a picture of the jacket that I just pulled out
24 that was taken the day of the search.

25 Q. Where was this jacket found?

1 A. This was taken in a closet within a hallway within the
2 residence.

3 MS. DeWITT: If I could ask you to now place in
4 front of the witness what's been previously marked for
5 identification as Government's Exhibit 31.

6 Q. You have Government's Exhibit 31 in front of you?

7 A. I do.

8 Q. What is that?

9 A. This is a Dell desk top computer.

10 Q. This was one of the items you seized this day?

11 A. Yes, it was.

12 Q. Where this particular item found?

13 A. This was found in an office within the residence.

14 MS. DeWITT: Put up what's previously been marked
15 for identification as Government's 48.19.

16 Q. What's depicted in that photograph?

17 A. That's a picture of the computer tower as found in the
18 residence.

19 Q. And again, I'm sorry, where was that found?

20 A. It was in the office.

21 MS. DeWITT: At this time, Your Honor, I would move
22 to admit Government's Exhibit 31.

23 THE COURT: Any objection to 31?

24 MR. LARSEN: No, Your Honor.

25 MR. THOMAS: No, Your Honor.

1 THE COURT: Ordered admitted and you may publish.

2 (Exhibit 31 was admitted.)

3 MS. DeWITT: If I could now ask to have what's been
4 previously marked for identification as Government's
5 Exhibit 32. I apologize, Your Honor. There is not really
6 any way not to publish these.

7 THE COURT: That's fine.

8 BY MS. DeWITT:

9 Q. Do you have Exhibit 32 in front of you?

10 A. Yes.

11 Q. What is it?

12 A. This is an HP computer tower desk top.

13 Q. Where was this found?

14 A. This was located within the garage.

15 Q. And can you tell and I'm going to back up to the last
16 one in a minute, but can you tell me what the serial number
17 is on the HP Pavilion?

18 A. Yes. Serial number is CNC4260VLL.

19 MS. DeWITT: And if I could ask my colleague to put
20 up Government's Exhibit 48 at page 15.

21 Q. What's depicted in that photograph?

22 A. That is the computer tower that was found within the
23 garage. This computer tower that is the photograph we took
24 on the day of the search.

25 Q. And I forgot on Government's Exhibit 31, could you also

1 just for the record, can you read in what the serial number
2 is for that item.

3 A. Serial number is HKX73F1.

4 MS. DeWITT: Thank you.

5 At this time, Your Honor, the government would move
6 to admit Government's Exhibit 32 into evidence.

7 THE COURT: Any objection to 32?

8 MR. LARSEN: No, Your Honor.

9 MR. THOMAS: No, Your Honor.

10 THE COURT: Ordered admitted.

11 (Exhibit 32 was admitted.)

12 MS. DeWITT: At this time I would ask to have
13 what's been marked for identification as Government's
14 Exhibit 705 placed before the witness.

15 Q. You have 705 in front of you?

16 A. I do.

17 Q. What is that?

18 A. E Machine computer desk top tower.

19 Q. Where was that computer found?

20 A. This was found in the garage.

21 MS. DeWITT: If I could ask my colleague to put up
22 Government's Exhibit 48 at page 9.

23 Q. What's depicted in that photograph?

24 A. That is the E Machine computer depicted on the left.

25 There was -- and this photograph was taken on day of the

1 search warrant.

2 MS. DeWITT: At this time, the government would
3 move to admit Exhibit 705.

4 THE COURT: What number did you say, 705?

5 MS. DeWITT: 705, yes.

6 THE COURT: Any objection?

7 MR. LARSEN: No objection.

8 MR. THOMAS: No objection.

9 THE COURT: Ordered admitted.

10 (Exhibit 705 was admitted.)

11 MS. DeWITT: I'll ask you to place before the
12 witness what's been previously marked for identification as
13 Government's Exhibit 30. If I could ask my colleague to put
14 up the photograph that's contained in Exhibit 48 at page 5.

15 Q. Let's start with the photograph this time. What is
16 depicted in this photograph?

17 A. That is an orange Nike shoe box found in the garage on
18 the day of the search warrant.

19 Q. Were there items in the orange Nike shoe box that were
20 seized that day during the execution of the search warrant?

21 A. Yes.

22 Q. Turn to the next page in Government Exhibit 48, which is
23 page 6. And what does that depict?

24 A. Those were the items inside the Nike shoe box.

25 Q. And turning your attention back to Government's

1 Exhibit 30, what is that?

2 A. The documents that I have in front of me that were found
3 were within the Nike shoe box is a social security statement
4 with the name Kabir Sohieh and the address that we conducted
5 the search warrant. There is a Map Quest driving directions
6 of an unknown location. We also identified numerous articles
7 from a website named Jihad Unspun. These are all the same
8 articles that were together. There's also --

9 Q. You say all they're all the same. Are there multiple
10 copies?

11 A. There are multiple copies.

12 Q. Approximately how many?

13 A. Approximately 13, and then one separate copy. This is
14 another article from the same website Jihad Unspun.

15 Q. Special Agent Stiff, are these all the items that were
16 found in that orange Nike box?

17 A. There were other items found.

18 Q. What happened to the other items?

19 A. There were other items that were deemed not pertinent
20 for evidence. Therefore, they were returned to the family
21 from the squad.

22 Q. So the only items you took from that particular box,
23 were items you deemed to be within the scope of the search
24 warrant?

25 A. Yes.

1 MS. DeWITT: At this time I would move to admit
2 Government Exhibit 30.

3 THE COURT: Any objection to 30?

4 MR. LARSEN: No, Your Honor.

5 MR. THOMAS: No, Your Honor.

6 THE COURT: All right. Thank you. Ordered
7 admitted.

8 (Exhibit 30 was admitted.)

9 MS. DeWITT: With the Court's permission, I'll
10 publish the social security statement, which is I believe to
11 be displayed from Government's Exhibit 30.1.

12 THE COURT: Do you just want to display it on the
13 Elmo? All right, that's fine. Go ahead.

14 BY MS. DeWITT:

15 Q. And is this a copy of the social security statement that
16 you referred to that was in the box?

17 A. Yes.

18 Q. And in the same of Sohiel Kabir?

19 A. Yes.

20 Q. This was one of the items in the box that you didn't
21 return that you seized?

22 A. Correct.

23 Q. And directing your attention to the -- you mentioned
24 that there were a group of documents that were from Jihad
25 Unspun for which there was approximately a dozen copies?

1 A. Yes.

2 Q. Directing your attention to the other one, you said it
3 was a single document from Jihad Unspun?

4 A. Yes.

5 Q. If I might, I believe it's page 2. Special Agent Stiff,
6 is the document that is now appearing on the screen is that
7 the first page of that Jihad Unspun?

8 A. Yes, it is.

9 Q. And if I could direct your attention to the paragraph
10 that is the third down. I'll ask my colleague to blow it up
11 to make it a little easier.

12 Can I ask that, Special Agent Stiff, that you read
13 this paragraph from this document into the record?

14 A. When the Americans hear the Mujahideen cries of Allah
15 akbar God is greatest and labiak alahuma labiak I am here oh,
16 God, I am here, they shiver with fear even before they get to
17 them from 300 meters away. Let me tell you something.
18 Sometimes I used to rejoice within myself when I saw the
19 Mujahideen butchering and killing lots of them, the Americans
20 because there's nobody who prefers an American over an Iraqi
21 or Arab Muslim.

22 THE COURT: All right. Ms. DeWitt, I think now I'm
23 going to read a limiting instruction to the jury.

24 Ladies and gentlemen, when I gave you the
25 preliminary instructions yesterday, one of those instructions

1 told you that sometimes evidence is admitted for a limited
2 purpose only. And when that occurs, you have to consider the
3 evidence for that limited purpose and for no other.

4 So the evidence that you just heard or saw I'm
5 going to give you a limiting instruction with respect to that
6 evidence which is that during the trial and just now, you've
7 heard evidence and you will hear evidence from time to time
8 that persons listened to, viewed, commented on or
9 disseminated materials available from various Internet sites.

10 Such activity is not itself a crime. Nor is
11 visiting the sites that contain material that some people may
12 find offensive. Now, I instruct you that this evidence is
13 admitted only for the limited purpose of showing whether or
14 not an agreement to commit the charged crimes existed or
15 whether or not Mr. Kabir or Mr. DeLeon or both had an intent
16 to commit those crimes.

17 Therefore, you must consider this evidence only for
18 that limited purpose and not for any other purpose. And
19 we're going to give you a written copy of this instruction to
20 place in your notebook with the other instructions that you
21 have. Thank you. Go ahead.

22 BY MS. DeWITT:

23 Q. And going back to that page, directing your attention to
24 the bottom of that page, what does it indicate that the date
25 of that particular Jihad Unspun news archive was printed?

1 A. March 4th of 2005.

2 Q. Special Agent Stiff, just to be clear, other than
3 executing this search warrant this day at the Kabir residence
4 on November 16, 2012, did you have any other involvement in
5 underlying investigation related to this case?

6 A. No, I did not.

7 MS. DeWITT: No further questions at this time.

8 THE COURT: Thank you.

9 Mr. Larsen, you may exam.

10 MR. LARSEN: Thank you, Your Honor.

11 CROSS-EXAMINATION

12 BY MR. LARSEN:

13 Q. Good afternoon, Agent Stiff.

14 A. Good afternoon.

15 Q. You testified that you found in this bag an order to
16 report by September of 2000; correct?

17 A. Correct.

18 Q. Now, you searched the home roughly 12 years later;
19 correct?

20 A. Correct.

21 Q. Now, when you search the home, was Mr. Kabir present?

22 A. No.

23 Q. To your knowledge was Mr. Kabir in the country?

24 A. He was not.

25 Q. Thank you, Agent. Did you find any guns in the home?

1 A. No.

2 Q. Did you find any ammunition in the home?

3 A. No.

4 Q. Did you find any bombs in the home?

5 A. No.

6 Q. Did you find any instruction manual on how to make
7 bombs?

8 A. No.

9 Q. Did you find any instructional manuals on how to operate
10 or make guns?

11 A. No.

12 Q. Did you find any instructional manuals on how to build
13 explosives?

14 A. No.

15 Q. Did you find any explosives?

16 A. No, we did not.

17 Q. Thank you, Agent. Did you find any terrain maps in the
18 home?

19 A. No.

20 Q. No terrain maps of Afghanistan?

21 A. No.

22 Q. No terrain maps of any kind?

23 A. No.

24 Q. Did you find any photographs of U.S. military bases in
25 the home?

1 A. No.

2 Q. Did you find any lists of military bases?

3 A. No.

4 Q. Did you find any photographs of U.S. personnel?

5 A. No.

6 Q. Did you find any lists of U.S. personnel?

7 A. No.

8 Q. Did you find any photographs of federal buildings?

9 A. No.

10 Q. You mentioned a moment ago that you were aware that

11 Mr. Kabir had already left the country at the time you

12 searched the home.

13 A. Correct.

14 Q. Do you know when he left the country?

15 A. No.

16 Q. But you knew he was not in the country when you searched

17 the home.

18 A. Yes.

19 Q. Did you find any passports in the home?

20 A. I don't recall.

21 Q. Did you find any forms of identification in the home?

22 A. We found forms of identification for other individuals

23 within the residence, but I don't recall whom.

24 Q. Those forms of identification based on your training and

25 experience, did they seem legitimate or fake?

1 A. Legitimate.

2 Q. You didn't find any pictures of Mr. Kabir with
3 Mr. Santana, did you?

4 A. No.

5 Q. You didn't find any pictures of Mr. Kabir with
6 Mr. DeLeon, did you?

7 A. No, sir.

8 Q. You didn't find any pictures of Mr. Kabir with
9 Mr. Gojali, did you?

10 A. No.

11 Q. Did you find any money in the home?

12 A. No.

13 MR. LARSEN: Thank you agent. No further
14 questions.

15 THE COURT: Thank you. Mr. Thomas.

16 MR. THOMAS: No questions, Your Honor.

17 THE COURT: Thank you. All right. Redirect.

18 REDIRECT EXAMINATION

19 BY MS. DeWITT:

20 Q. Mr. Stiff, you yourself were not involved in searching
21 the digital data on any of those computers that were seized
22 that day, were you?

23 A. No, I was not.

24 Q. You have no idea what was on those computers?

25 A. No.

1 MS. DeWITT: Nothing further.

2 THE COURT: Thank you. Do you have any further
3 witnesses for today?

4 MR. CHIU: Your Honor, the government is prepared
5 to call one additional witness. We identified six.

6 THE COURT: Who is the witness?

7 MR. CHIU: Special Agent Jun Lao.

8 THE COURT: Any objection to going on with the next
9 Agent Lao?

10 MR. AARON: Your Honor, I'm sorry. I didn't catch
11 that name.

12 MR. CHIU: Jun Lao.

13 MR. AARON: We have no objection to the government
14 doing its direct.

15 THE COURT: Why don't we do that.

16 MR. CHIU: Your Honor, United States calls Special
17 Agent Demosthenes Lao.

18 THE COURT: Thank you.

19 THE CLERK: Please raise your right hand.

20 (Witness sworn.)

21 THE CLERK: Please be seated. Please state your
22 full name and spell it for the record.

23 THE WITNESS: Demosthenes Lao.

24 D-e-m-o-s-t-h-e-n-e-s and the last name L-a-o.

25 THE COURT: Thank you. You may inquire.

1 DIRECT EXAMINATION

2 BY MR. CHIU:

3 Q. Special Agent Lao, do you go by different name as well?

4 A. I do. I go by Jun.

5 Q. How long have you been with the FBI?

6 A. 11-and-a-half years.

7 Q. And are you currently assigned to a particular squad?

8 A. Yes, I am. I'm assigned to the Riverside Force Squad
9 which investigates domestic terrorism.

10 Q. And can you describe a little bit about what you do,
11 what kind of crimes you investigate?

12 A. I basically, we investigate domestic terrorism which the
13 government considers a person or a group that is committing a
14 federal crime in the furtherance of their ideology using
15 force or violence or coercion. So animal rights extremists,
16 white supremacist extremists, anti-abortion extremists.

17 Q. How long have you been employed by the FBI?

18 A. 11-and-a-half years.

19 Q. Prior to being assigned to the Domestic Terrorism Squad,
20 were you assigned to a different squad?

21 A. Yes. Riverside III, which is the international
22 terrorism. I worked that for about three years.

23 Q. And is another name or another reference to that squad
24 the Joint Terrorism Task Force?

25 A. Yes, it is.

1 Q. Can you just briefly describe some of the training
2 you've received as a member of the JTTF?

3 A. We've done a lot of different like surveillance
4 trainings. How to investigate just various crimes, white
5 collar crimes where you go through case studies on what steps
6 they took and how they got to where they brought the
7 prosecution.

8 Q. Now, turning your attention to your involvement in this
9 case, were you involved in this case?

10 A. Yes, I was.

11 Q. How were you involved in this case?

12 A. I did surveillances.

13 Q. Just first explain what doing surveillance is.

14 A. To get a pattern on the person is going to meet with, we
15 follow them basically and see what their patterns are, who
16 they're meeting with. I mean that's basically surveillance.

17 Q. And when you conducted surveillance, was it just you or
18 did you have other members of the team with you?

19 A. No, it's a large team usually 7 to 10 different agents.

20 Q. Now, with respect to this case, when you conducted
21 surveillance, approximately how many times did you conduct
22 surveillance?

23 A. I want to say three. Two in the car surveillances and
24 one on foot or in the embassy or consulate.

25 Q. Do you recall approximately when you conducted

1 surveillance?

2 A. March 2012, and then in April of 2012, and then it was
3 November 8th at the Philippines consulate.

4 Q. Now, directing your attention to November 8th, 2012, you
5 indicated that you conducted surveillance at the Philippines
6 consulate; correct?

7 A. Yes.

8 Q. What was the purpose of conducting surveillance on that
9 date?

10 A. To witness Mr. DeLeon getting his passport.

11 Q. Now, referring to Mr. DeLeon, prior to today, had you
12 seen Mr. DeLeon while you were conducting surveillance?

13 A. Yes.

14 Q. Do you see him in the court today?

15 A. Yes, I do.

16 Q. Would you please rise and identify Mr. DeLeon by
17 pointing out an article of clothing?

18 A. A blue tie.

19 Q. And is that the same person you conducted surveillance
20 on as part of your responsibilities and involvement in this
21 case?

22 A. Yes, but he didn't have hair. I want to say his hair it
23 was shaved.

24 Q. You can take a seat. Special Agent Lao, where is the
25 Philippines consulate located?

1 A. 3600 Wilshire Boulevard on the fifth floor.

2 Q. And where were you when you were conducting
3 surveillance?

4 A. When you enter the consulate, it's basically a large
5 room like this. There's a security guard when you first
6 enter and like banker's windows on the left-hand side and
7 there's a waiting area, several rows of chairs on the
8 right-hand side. So I took a position in the waiting area
9 where I can see the front, the entrance to the consulate.

10 Q. And approximately what time were you when you were
11 inside the consulate?

12 A. I entered around 1 o'clock p.m.

13 Q. And just to be clear, the Philippines consulate is in
14 the city of Los Angeles; is that right?

15 A. Yes, it is.

16 Q. Can you describe what happened when you were conducting
17 surveillance inside the Philippines consulate?

18 A. Well, I was seated there at approximately 1:23 p.m. and
19 Mr. DeLeon and Mr. Gojali entered the Philippines consulate
20 and they stopped for a little while and then they went to a
21 window that said releasing legal documents. And Mr. DeLeon
22 spoke to the attendant for a few seconds, and then she went
23 away and came back, and then it looked like he signed
24 something, and then he and Mr. Gojali started walking out.

25 And I remember them pausing before they left and I

1 saw a passport. It was brown in color with gold lettering on
2 it and Mr. DeLeon had opened it up and flipped some pages and
3 then looked at it. Then they kind of chuckled at something
4 and then they walked out.

5 Q. Do you have any idea what they were chuckling about?

6 A. No, I do not.

7 Q. And so did you see Mr. DeLeon leave with a document that
8 day that he received from the legal window or the window?

9 A. I didn't see him with anything until they had walked and
10 stopped and opened the passport.

11 Q. Are you familiar with what a Philippines passport looks
12 like? Have you seen one before?

13 A. I have.

14 Q. And did it appear he was walking out with a Philippines
15 passport?

16 A. Yes.

17 Q. Now, were you in the Philippines consulate specifically
18 for the purpose of this investigation?

19 A. Yes, I was.

20 Q. And it was not just for general surveillance; correct?

21 A. No.

22 Q. It was specifically related to your work in this
23 investigation?

24 A. Yes, it was.

25 Q. While you were conducting surveillance, did you have an

1 opportunity to view or to determine what kind of vehicle
2 Mr. DeLeon drove?

3 A. Yes. It was a dark gray Nissan Ultima. There were no
4 hubcaps and it had tinted windows, and on the rear window
5 there was big white lettering in Arabic script and the
6 license plate was 6NQU028.

7 Q. Was there anything noticeable to you about the vehicle?

8 A. Nothing that stood out other than . . .

9 Q. At this time, I'll ask Special Agent Elias to show you
10 what has been marked as Government's Exhibit 45. And if you
11 can quickly flip through those documents and look up when
12 you're ready.

13 Special Agent Lao, when you were conducting
14 surveillance on Mr. DeLeon, did you see him enter and exit
15 the vehicle that you described?

16 A. Yes.

17 Q. And you previously described what the license plate
18 number was; correct?

19 A. Yes.

20 Q. Now, looking at Government's Exhibit 45, what is it?

21 A. It's a Craig's List ad for a 2004 Nissan Ultima.

22 Q. Can you explain what -- do you know what Craig's List
23 is?

24 A. It's a place where you buy and sell stuff.

25 Q. Including vehicles?

1 A. Vehicles, yes.

2 Q. And are there photographs of a vehicle in that Craig's
3 List ad?

4 A. Yes, there is.

5 Q. What vehicle is in that or can you describe the vehicle
6 in Exhibit 45?

7 A. It's a dark-colored Nissan Ultima with no hubcaps and
8 tinted windows.

9 Q. And is there a -- within those documents is there a
10 depiction of what the license plate number is for the
11 vehicle?

12 A. Yes, there is.

13 Q. And what is that license plate?

14 A. It's 6NQU028.

15 Q. Is that consistent with the vehicle that you saw when
16 you saw Mr. DeLeon exiting or entering the vehicle when you
17 were conducting surveillance?

18 A. Yes, it is.

19 MR. CHIU: Your Honor, at this time the government
20 moves Exhibit 45 into evidence.

21 THE COURT: Any objection to 45?

22 MR. AARON: No, Your Honor.

23 MR. THOMAS: No, Your Honor.

24 THE COURT: All right. I thought 45 was already in
25 evidence.

1 MR. AARON: The Court's thinking of 46.

2 THE COURT: I am. Exhibit 45 is ordered into
3 evidence.

4 (Exhibit 45 was admitted.)

5 BY MR. CHIU:

6 Q. You can also look up here as well. I'll put it on the
7 screen. Special Agent Lao, when you conducted surveillance,
8 is this the vehicle you saw Mr. DeLeon entering and exiting
9 when you were conducting surveillance?

10 A. Yes.

11 Q. And consistent with what you described earlier, this
12 vehicle had no hubcaps; correct?

13 A. That's correct.

14 Q. And that's what you previously described with tinted
15 windows as well?

16 A. Yes.

17 Q. Now, you mentioned that this was a Craig's List ad; is
18 that right?

19 A. Yes.

20 Q. Now, directing your attention to exhibit, first of all,
21 do you notice a date? Actually, do you notice a heading on
22 top of this exhibit?

23 A. Yes.

24 Q. And what does the heading say?

25 A. 2004 Nissan Ultima. 7,000. Chino.

1 Q. And does it have a date associated with that?

2 A. Yes, it does. October 17, 2012.

3 Q. And when exactly did you conduct surveillance on
4 Mr. DeLeon at the Philippines consulate?

5 A. November 8th.

6 Q. So that would have been roughly two weeks before you saw
7 him pick up the passport at the consulate; is that correct?

8 A. Closer to three, yes.

9 Q. Now, would you please read to -- read out loud the
10 contents of this ad, please and let me -- can you see it?

11 A. Yes. It's really clean. No problems. Runs great. AC
12 works and heater. Perfect family car. Getting rid of it
13 because I'm leaving the country ASAP. Need money fast.
14 Please no trades or low ballers. Has tint. Everything is
15 original. The car is perfect. No engine problems
16 whatsoever. Just got smogged and registration has just been
17 taken care of. Clean interior and exterior. Stereo works
18 with CD player. 118,000 miles on car. Selling it for 7,000
19 or best offer. You can contact me at 626-589-2068 call or
20 text. Please don't ask questions that are already answered.
21 Thank you.

22 MR. CHIU: Your Honor, I have no further questions
23 for this witness.

24 MR. AARON: Your Honor, I'm prepared to do the
25 cross-examination of the witness. He doesn't need to come

1 back tomorrow.

2 THE COURT: All right. Thank you. Go ahead.

3 CROSS-EXAMINATION

4 BY MR. AARON:

5 Q. Good afternoon, Officer. You said that you were in the
6 waiting room at 1 o'clock?

7 A. Yes.

8 Q. And that Mr. DeLeon and Mr. Gojali appeared at 1:23?

9 A. Yes.

10 Q. So you were there before they came?

11 A. Yes.

12 Q. You were waiting for them?

13 A. Yes.

14 Q. How did you know to go there?

15 A. There was a CHS that said that they were gonna pick up
16 the passport on that day.

17 Q. By CHS you mean an informant?

18 A. Yes.

19 Q. So the informant told you?

20 A. Not me personally, but the squad, yes.

21 Q. I see. You were told by someone who had been told by
22 the informant?

23 A. Yes.

24 Q. Thank you. Did you say that there was Arabic script on
25 the car?

1 A. Yes, there was.

2 Q. Can you explain that?

3 A. It was a large decal that was Arabic writing on the rear
4 window.

5 Q. Large enough to attract attention?

6 A. Yes.

7 Q. And I gather your Arabic's a little rusty?

8 A. Yes. I don't know what it said.

9 Q. All right. Thank you. And when you saw them coming
10 out, when you saw DeLeon and Gojali coming out, they -- you
11 saw Gojali opening a passport, looking at it and laughing
12 with Mr. DeLeon?

13 A. No. It was Mr. DeLeon opened the passport and pointed
14 to something and they just chuckled about it.

15 Q. All right. When you open up an official ID, you'll see
16 a picture in it?

17 A. Yes.

18 Q. And like a lot of official pictures, they might have
19 been laughing at theirs?

20 A. Could have been.

21 MR. AARON: Thank you. Nothing further.

22 THE COURT: Mr. Thomas?

23 MR. THOMAS: I have no questions, Your Honor.

24 THE COURT: Redirect.

25

1 REDIRECT EXAMINATION

2 BY MR. CHIU:

3 Q. Special Agent Lao, can you please look at Government's
4 Exhibit 45 again in front of you. In those photographs is
5 there any Arabic script on the back of the tinted window?

6 A. Not on this picture. It doesn't show the back window.

7 Q. So at the time when you saw the vehicle, it had Arabic
8 script; correct?

9 A. That's correct.

10 Q. The photographs do not have the Arabic script?

11 MR. AARON: Well, I object. That misstates the
12 evidence as to the photograph.

13 THE COURT: Misstates the evidence as to the
14 photograph?

15 MR. AARON: You cannot see in the photograph.

16 THE COURT: But your objection is as to misstating
17 is the evidence as directed to the photograph?

18 MR. AARON: That's correct.

19 THE COURT: Objection sustained.

20 BY MR. CHIU:

21 Q. Special Agent Lao, when you were inside the Philippine
22 consulate, you indicated there were two people; correct?

23 A. Yes.

24 Q. And who were those two people?

25 A. Mr. DeLeon and Mr. Gojali.

1 Q. Was there anybody else inside the Philippines consulate?

2 A. No.

3 Q. And who was it that picked up the passport at the
4 window?

5 A. Mr. DeLeon.

6 Q. And who was it that left the Philippines consulate with
7 the Philippines passport?

8 A. Mr. DeLeon.

9 MR. CHIU: Thank you.

10 THE COURT: Thank you.

11 All right. Ladies and gentlemen, be in recess as
12 far as the jury is concerned until 9 o'clock tomorrow
13 morning.

14 Please remember don't discuss the case. Anything
15 about the case. Anything about any of the lawyers. The
16 participants in the trial. The witnesses today. The
17 evidence, anything. And don't make up your minds about the
18 case, an issue in the case, not the verdict. Don't do any
19 research. Don't Goggle. Don't chat. Don't tweet or
20 communicate in any fashion.

21 Thank you very much for your attention today.

22 You're excused.

23 (Jury not present.)

24 THE COURT: We're on the record outside the
25 presence of the jury. What's your lineup for tomorrow?

1 MR. CHIU: Your Honor, the United States is
2 prepared to call the following witnesses: CVP Officer
3 Xiomara Rodriguez that will be the first witness. Second,
4 witness will be Craig Goldsmith. Third witness will be
5 Arnell Rivera. Fourth witness will be Nhan Nguyen. Fifth
6 witness will be Tim Garcia.

7 THE COURT: You think that will get you through the
8 day?

9 MR. CHIU: Your Honor, it may not and we are
10 actually prepared to have Special Agent Lao testify tomorrow,
11 but we took him early because we didn't get through today.
12 We'll try to have another witness lined up or another one or
13 two.

14 THE COURT: And you'll communicate to defense
15 counsel tonight?

16 MR. CHIU: Certainly. As soon as we do, we'll let
17 defense know.

18 THE COURT: All right. Anything else either side
19 needs to bring up with me?

20 MS. DeWITT: No, Your Honor. I just wanted to
21 offer to allow the defense to look at the exhibits they
22 didn't want to agree to without having an opportunity to look
23 at them, and I would like to get that done today because I
24 don't want this to become a lingering issue.

25 THE COURT: If you have a few moments, please do

1 that this evening before you leave.

2 Anything else?

3 MR. AARON: No, Your Honor.

4 And Your Honor, thank you for sua sponte reading
5 the limiting instruction.

6 THE COURT: Oh, you're welcome. And I'm not going
7 to do it every time, but I will be doing it more than --
8 that's not the only I'm going to read it.

9 MR. AARON: It might help if the government can let
10 us know if they're introducing a lot of evidence. Perhaps,
11 the Court can just reading the limiting instruction once
12 before the witness testifies.

13 THE COURT: And you don't need to ask unless
14 there's something in particular you want to ask me to read it
15 again, you can do so. But I intend to read it from time to
16 time when a lot of this evidence comes in.

17 MR. AARON: Thank you, Your Honor.

18 THE COURT: All right. You're welcome.

19 Maybe after you're done with everything else, I
20 need to talk to the DeLeon team so the clerk -- I could also
21 do it first thing in the morning.

22 MR. THOMAS: That's fine. I'll have Kay here
23 tomorrow as part of the team.

24 THE COURT: Okay, that's fine.

25 THE CLERK: This court's in recess.

1 (Proceedings were concluded at 4:40 p.m.)
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CERTIFICATE OF REPORTER

COUNTY OF LOS ANGELES)
) SS.
STATE OF CALIFORNIA)

8 I, LAURA ELIAS, OFFICIAL REPORTER, IN AND FOR THE UNITED
9 STATES DISTRICT COURT FOR THE CENTRAL DISTRICT OF CALIFORNIA,
10 DO HEREBY CERTIFY THAT I REPORTED, STENOGRAPHICALLY, THE
11 FOREGOING PROCEEDINGS AT THE TIME AND PLACE HEREINBEFORE SET
12 FORTH; THAT THE SAME WAS THEREAFTER REDUCED TO TYPEWRITTEN
13 FORM BY MEANS OF COMPUTER-AIDED TRANSCRIPTION; AND I DO
14 FURTHER CERTIFY THAT THIS IS A TRUE AND CORRECT TRANSCRIPTION
15 OF MY STENOGRAPHIC NOTES.

DATE: AUGUST 14, 2014

/s/ LAURA ELIAS

LAURA MILLER ELIAS, CSR 10019
FEDERAL OFFICIAL COURT REPORTER

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